



# City of San Marcos

## Regular Meeting Agenda

### Charter Review Commission

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Monday, February 8, 2021

5:30 PM

Virtual Meeting

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**Due to COVID-19, this will be a virtual meeting.**

**To view the meeting, please go to <https://us02web.zoom.us/j/84104972293> or  
Dial in at: 888 788 0099 (Toll Free) or 877 853 5247 (Toll Free) **Webinar ID: 841 0497 2293** or  
iPhone one-tap: US: +13462487799,,84104972293# or +16699006833,,84104972293#**

- I. Call To Order
- II. Roll Call
- III. 30 Minute Citizen Comment Period

*Persons wishing to participate (speak) during the Citizen Comment portion of the meeting must email [tmoreno@sanmarcostx.gov](mailto:tmoreno@sanmarcostx.gov) no later than 12:00 p.m. on the day of the meeting. A call in number to join by phone or link will be provided for participation on a mobile device, laptop or desktop computer. Comments shall have a time limit of three (3) minutes each. Any threatening, defamatory or other similar comments are prohibited by Chapter 2 of the San Marcos City Code.*

  1. Administer Oaths of Office.
  2. Election of Chair.
  3. Election of Vice-Chair.
  4. Discuss and consider approval of meeting schedule and approach to Charter review.
  5. Review and discuss City Council's Charge to the Charter Review Commission.
  6. Begin section by section review of City Charter.
- IV. Discussion and Recommendations for Future Agenda Items

*Board Members may provide requests for discussion items for future agenda in accordance with the board's approved bylaws. No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.*
- V. Question and Answer Session with Press and Public

*This is an opportunity for the Press and Public to ask questions related to items on this agenda. Each speaker will be provided up to three (3) minutes to speak.*
- VI. Adjournment

#### Notice of Assistance at the Public Meetings

The City of San Marcos is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855.461.6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov).

For more information on the Ethics Review Commission, contact Tina Moreno at 512.393.8151 or [tmoreno@sanmarcostx.gov](mailto:tmoreno@sanmarcostx.gov).

# City of San Marcos, Texas

## OATH OF OFFICE

I,  solemnly swear (or affirm), that I will faithfully execute the duties of the office of the \_\_\_\_\_ Charter Review Commission \_\_\_\_\_, of the City of San Marcos, Texas, and will to the best of my ability preserve, protect, and defend the Constitution, laws and ordinances of the United States, of this State, and of this City, so help me God.

SWORN TO and Subscribed before me by on this  day of , 2021

(Seal)

\_\_\_\_\_  
Signature of Person Administering Oath

\_\_\_\_\_  
Printed Name

Notary Public, State of Texas  
Title

## CITY COUNCIL'S CHARGE TO THE 2021 SAN MARCOS CHARTER REVIEW COMMISSION

The San Marcos City Council met in regular session on January 5, 2021 to discuss and vote on specific matters to be considered by the Charter Review Commission (Commission) as it conducts its review of the San Marcos City Charter. The Commission's final report to Council should include recommendations for or against placing proposed charter amendments regarding these matters on the ballot for a special city charter amendment election in November of 2021. Minutes of the January 5, 2021 council meeting will be provided to the Commission after they have been approved. Commission members can access a video of Council's deliberations by following the links on the city's website. The charge to the Commission was Agenda Item #14 on the Non-Consent Agenda for that meeting.

### Council Direction - Charter Review Process

1. Council agreed that only matters receiving a majority vote would be included in the charge to the Commission.
2. Council agreed that the Commission should complete its work and submit its final report to the council by Memorial Day (May 31, 2021)
3. Council agreed that the Commission should submit an interim report or update after it has conducted three or four meetings. This will include any items the Commission is considering that are not within the Council's charge. The interim report or update will be placed on a future council agenda for discussion/direction.

### Council Direction – Specific Matters To Be Reviewed/ Considered

1. Remove residency requirement for the City Clerk or only require residence to be within a certain radius or distance from the city. Section: 4.02
2. Remove residency requirement for the Presiding Judge of the San Marcos Municipal Court of Record. Section: 4.03
3. Prohibit appointment of a relative or business associate of a council member to the Planning and Zoning Commission. Section: 7.01
4. Prohibit the appointment of more than one real estate professional to the Planning and Zoning Commission. Section: 7.01
5. Require any motion of the Planning and Zoning Commission to receive at least five (or four) affirmative votes in order to be adopted. Section: 7.04
6. Increase the length of the term of office for mayor or council members. Section: 3.01
7. Elections for mayor and council members to be held only in odd-numbered years. Section 3.01
8. Delete requirement for city council approval of appointments to the following positions: assistant city manager (Section 4.01(c)(2); assistant city clerk (Section 4.02); municipal court clerk and assistants (Section 4.03); assistant city attorney (Section 4.04)
9. Amend Section 3.17(b) that currently includes a provision allowing removal of the city manager by a majority vote of the city council because it conflicts with Section 4.01(b) that specifically provides for removal of the city manager by a vote of five members of the entire council.



May 25, 2017

Mayor Thomaides and City Council Members:

The 2017 Charter Review Commission held a series of 12 meetings to consider possible amendments to the San Marcos City Charter. The Commission conducted a section-by-section review and also considered provisions recommended by individual council members. We have concluded our work, and we present this report to you with recommendations for amendments to the City Charter to be submitted to City voters for consideration at the November 7, 2017 election.

We studied the charter with the following purposes in mind:

- To keep the charter current with state law – no changes were needed
- To update terminology, clarify language, improve syntax and punctuation
- To create added efficiency and transparency
- To maintain and allow for consistency in policy
- To encourage broader participation of the citizenry
- To promote integrity in public service and ethics in city government

Attached is a list describing each proposed amendment, with a purpose statement, and a redlined copy of the charter showing each text amendment using underlining to indicate language proposed to be added and ~~overstrike~~ indicating language proposed to be deleted. Minutes of our meetings are also attached.

We appreciate the opportunity to serve you and the citizens of our community through the Charter review process.

Respectfully submitted,

A handwritten signature in black ink, reading "Paul B. Mayhew".

Paul Mayhew, Chair  
Charter Review Commission



### **Cumulative List of Recommended City Charter Amendments\***

1. Change all references to “municipal government” to “city government.” [Sections 1.01 and 1.02]

**Purpose:** To provide clarity and consistency throughout the City Charter

2. Amend Section 1.03, Statement of Goals, to provide that the city government should:
  - promote high quality affordable housing
  - include protection of the San Marcos River, its springs, aquifer, and tributaries

**Purposes:** To explicitly include high-quality affordable housing with the existing enumeration of the characteristic of a high quality of life already included in the City Charter. To emphasize the particular importance of protecting the city’s treasured natural features.

3. Allow the address shown on a person’s Texas Identification card to be used, in addition to a current driver’s license, as proof of residence for purposes of qualifying to run for and hold office on the city council. [Section 3.02(a)(2)(A)]

**Purpose:** To allow additional state documents to be used and accepted as proof of residence to qualify for public elections

4. Amend Section 3.02(a)(6) to require Council members to remain current on all financial obligations to the city in order to continue to hold office. Under the current city charter, only financial obligations arising from the duties of the office are considered. If this amendment is approved, having delinquent city utility accounts or delinquent property taxes would disqualify a council member from continuing to hold office and disqualify an individual with such outstanding debts from filing an application to run for council. See also, Section 5.03 – Filing For Office.

**Purpose:** To elect council members with sufficient personal financial management skills and avoid possible conflicts of interest due to outstanding city debts

5. Change all references to the position of “mayor pro tempore” to “mayor pro tem.” [Section 3.05]

**Purpose:** To provide clarity and consistency throughout the City Charter

6. Change all references to the position of “city secretary” to “city clerk” [Sections 3.09 and 6.02]

**Purpose:** To provide clarity and consistency throughout the City Charter

7. Require the city attorney to approve or file written objections to proposed ordinances prior to consideration by the city council. [Section 3.11(b)]

**Purpose:** Clarifies existing language to make sure council receives legal advice regarding the validity of proposed ordinances before consideration and action by council

8. Correct a reference in the first sentence of Section 3.12 from “chapter” to “charter”

**Purpose:** To provide clarity and consistency throughout the City Charter

9. Require the affirmative vote of at least five members of the city council to remove the city manager. [Section 4.01(b)]

**Purpose:** This provision strengthens the operation of San Marcos as a "council-manager government" as defined in the City Charter by insulating the City Manager from political pressures from the council.

10. Allow the city clerk to authenticate ordinances and resolutions by electronic signature. [Section 4.02]

**Purpose:** Allows for efficient and modern operation of city government.

11. Clarify that names of candidates can be listed electronically on the ballot instead of being printed as they would be on paper ballots. [Section 5.04]

**Purpose:** Allows for efficient and modern operation of city elections.

12. Amendments to Section 7.01 – Planning and Zoning Commission – Qualifications:

- Remove all remaining references to the ETJ member

**Purpose:** The ETJ position was removed from the City Charter by voters effective March 15, 2015. The removal of out-of-date ETJ language from section 7.01 makes it easier to understand how current membership in the P&Z commission is determined.

- Eliminate property ownership as a requirement to serve on the P&Z
- Increase residency requirement from three years to five years to serve on P & Z

**Purpose:** To encourage civic participation and expand the pool of San Marcos citizens eligible for appointment to this public commission, including long-term local residents impacted by decisions made by P&Z, and encourages participation by members with knowledge of the community.

- Prohibit the appointment of more than two professional realtors to the P & Z

**Purpose:** The Charter presently instructs City Council to appoint a diverse set of P&Z commissioners “which includes geographic, professional, gender, racial, and viewpoint diversity. (Section 7.01)” This provision ensures that a broad range of professions are represented on Planning and Zoning.

13. Amendments to Section 7.02 – Planning and Zoning Commission – Powers and Duties:

- Require the planning staff to follow all city ordinances rules and regulations and consult with the city attorney before making any recommendations to the Planning and Zoning Commission
- Require the Planning and Zoning Commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council

**Purpose:** This provision makes current city practice a City Charter requirement.

- Require city council decisions on conditional use permit appeals to be based on Texas laws, Federal laws, city ordinances and regulations in addition to the record before the Planning and Zoning Commission

**Purpose:** This provision allows the City Council to consider all relevant laws and regulations in its public hearings related to conditional use permits.

- Prohibit the assessment of a fee to appeal a decision on conditional use permit to the city council

**Purpose:** This provision provides citizens of San Marcos free access to their elected officials related to public matters.

14. Require the proposed city budget to be made available at city hall, at the San Marcos Public Library, and on the city’s website. Require the adopted budget and supporting schedules to be published on the city’s website. [Sections 8.02 and 8.05]

**Purpose:** Promote transparency and public awareness of city government

15. Require proposed ordinances granting a public utility franchise to be made available at the San Marcos Public Library, at city hall, and on the city’s website. [Section 11.04]

**Purpose:** Promote transparency and public awareness of city government

16. Require updates to annual financial disclosure forms by council members, council appointees, and board and commission members within 30 days of any significant changes. [Section 12.02(a)(2)]

**Purpose:** Public officials are currently required to file financial disclosure forms every 12 months. This provision assures San Marcos citizens on-going accuracy and transparency regarding public official’s financial disclosures if there is a significant change within that one-year timeframe.

17. Prohibit council members and employees from having a financial interest in the purchase from the city of any land, materials, supplies, or service. [Section 12.02(a)(3)]

**Purpose:** To avoid conflicts of interest and ensure public trust, the City Charter already prohibits current council members and city employees from financial benefit in the *sale* of any land, materials, supplies, or service. This provision increases protection by prohibiting this potential conflict to financial interest the *purchase* of land, materials, supplies, or service as well.

18. Prohibit council members from having a financial interest in the sale to the city of any land, materials, supplies, or service for a period of two years from the date of leaving office; rendering contracts entered into in violation of this provision voidable by city manager or city council. [Section 12.02; add a new subsection (a)(4)]

**Purpose:** Public office is meant for the public good and not for personal enrichment. Currently, only active councilmembers are prevented from having a financial interest in city deals. In contrast, currently both active city employees (Section 12.02) and former employees within two years of employment (San Marcos Ethics Ordinance) are prevented from having a financial interest in city deals. This provision amends the charter to apply the same prohibition to council members for period of two years after leaving office.

19. Correct punctuation errors - Insert a comma, known as the Oxford comma or serial comma, immediately before the coordinating conjunction (usually “and” or “or”) in a series of three or more items – in each instance where this occurs in the city charter

**Purpose:** To provide clarity and consistency throughout the City Charter

20. Amend the powers of the Ethics Review Commission; granting the authority to conduct hearings regarding alleged violations of the city charter, render advisory opinions regarding potential violations of the city charter, and make recommendations regarding such violations. [Section 12.02(c), subparagraphs (2),(3), and (4)]

**Purpose:** This amendment makes clear the importance of public officials to follow the City Charter in addition to existing State conflict of interest laws and the San Marcos Code of Ethics ordinances and provides a process for accepting and hearing complaints regarding charter violations.

21. Amendments to Section 12.03, Nepotism:

- Rename this section to read: “12.03 Nepotism and Conflict of Interest”
- Rephrase the sentence structure of the current provision to make it less cumbersome and to provide greater clarity
- Prohibit direct supervision of an employee by his/her relative, roommate, or sexual partner

- Require supervisors to report relationships with subordinates promptly to the Human Resources Department
- Defining “relative” to include persons related within the third degree by blood or within the second degree by affinity (marriage, including common law marriage)
- Prohibit a “public official” from appointing his or her business associate to a “public board or commission”
- Defining “business associate” and “sexual partner”

**Purpose:** This provision increases public trust in financial interests of public officials and avoids potential conflicts of interests by public officials and city employees.

22. Amendments to Section 8.02, Preparation and submission of budget:

- Add a provision to require the city council to hold a policy budget workshop on or before February 27<sup>th</sup> of each year
- Require the council to conduct a public hearing and to formulate the budget policy statement by March 31<sup>st</sup> of each year instead of April 30<sup>th</sup>
- Re-letter the subsections of this section to follow the sequential steps in the process for formulating the budget policy statement

**Purpose:** This provision provides citizens and city staff more time to review proposed city budget goals before the adoption of a city budget. It also promote transparency and public awareness of city government

23. Provide for removal of the mayor or a council member from office, upon the affirmative vote of five members of the council, for substantial violations of the city charter [Section 3.17]

**Purpose:** This provision makes clear the importance of the Mayor and Council Members to follow the City Charter by providing an option for enforcement of the Charter.

24. Require candidates for mayor or city council to take an oath agreeing to comply with the Code of Fair Campaign Practices set forth in Section 258.004 of the Texas Election Code [Section 5.03]

**Purpose:** The State Election Code provision encourages campaigns that are decent, honest, and fair to encourage healthy competition and open discussion of issues and candidate qualifications and to discourage practices that cloud the issues or unfairly attack opponents. This provision makes it a City Charter requirement that candidates take an oath to comply with the Code of Fair Campaign Practices to help retain the community culture of San Marcos, to encourage citizens to offer themselves for public service without fear of the politics of personal destruction, and to keep local elections issue oriented.

25. Require the salary of each city position to be published on the city’s website [New Section 4.07]

**Purpose:** Promote financial transparency and public awareness of city government

26. Require all campaign contributions and reports filed by candidates to be legible. The city clerk shall enforce this provision and retain the records.

**Purpose:** Promote financial transparency and public awareness in public elections via candidate reports that are clearly and readily understood.

\*LIST IS COMPLETE THROUGH MAY 3, 2017 AND INCLUDES PURPOSE STATEMENTS FOR EACH PROPOSED AMENDMENT APPROVED AT THE ERC'S FINAL MEETING

## ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

### Sec. 1.01. - Establishment and purposes of Charter.

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city municipal government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities stated in this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(1), 8-15-06/11-7-06)

### Sec. 1.02. - Form of government.

The city municipal government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 7, 8-20-13/11-5-13 )

State Law reference— Home rule form of government, V.T.C.A., Local Government Code, § 26.001 et seq.

### Sec. 1.03. - Statement of goals.

The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.

(Ord. No. 1998-7, Prop. 1, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(2), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 8, 8-20-13/11-5-13 )

## ARTICLE II. - POWERS OF THE CITY<sup>[2]</sup>

Footnotes:

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State Law reference— Home rule powers generally, V.T.C.A., Local Government Code, § 51.071 et seq.

#### **Sec. 2.01. - General.**

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have and may exercise all the powers granted to home rule cities by the constitution or laws of Texas, as they now exist or are hereafter amended.

(Ord. No. 1992-9, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

#### **Sec. 2.02. - Eminent domain.**

- (a) The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state, subject to the right of the owner of the property taken. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.
- (b) However, the city shall not use the power of eminent domain to acquire property for transfer, or for lease in substantial part, to a private third party for the purpose of economic development. The term "economic development" means any activity to increase tax revenue, tax base, employment, or the general economic health of the City, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, public utility facility, or municipal building; (2) the transfer of land to a private entity that is a common carrier, such as a utility provider; or (3) the transfer of property to a private entity to remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or the acquisition or transfer of abandoned property.

(Ord. No. 1998-7, Prop. 2, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(2), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(3), 8-19-08/11-4-08)

#### **Sec. 2.03. - Extension or detachment of boundaries.**

The city council shall have power by ordinance to fix the boundary limits of the City of San Marcos and to provide for the alteration and extension of boundary limits, the detachment of territory and the annexation of additional territory, in accordance with applicable state annexation laws.

(Ord. No. 1984-11, Prop. 1, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 1, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 1, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

#### **Sec. 2.04. - Limited purpose annexation.**



In addition to the power to annex additional territory for all purposes, the city shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the city for the limited purposes of "planning and zoning" and "sanitation and health protection," and to annex for one or both of such limited purposes additional territory lying adjacent to the city; provided, however, that no such territory which lies farther than one mile from the corporate boundary limits enclosing the territory which is a part of the city for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which is a part of the city for all purposes, such boundary limits of the limited territory shall be known as "limited purpose boundary limits". Every ordinance by which territory is to be annexed to the city for one or both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city and in the form in which it is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of the limited purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city shall have each and every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory is annexed, and the power of the city to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of "planning and zoning," the city shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose of "sanitation and health protection," the city shall have the power to adopt all reasonable regulations pertaining to sanitation and public health and to require compliance with such regulations. Every inhabitant of territory annexed for one or both of the limited purposes, who is otherwise qualified, shall be entitled to vote in city elections on every issue where the question is the election or recall of the mayor or a city council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city in connection with any ordinance, regulation or action which is, or is alleged to be, applicable to him or his property because of such limited purpose annexation, but will not be eligible to run for any office in the City of San Marcos. The city shall have no power to levy any tax for municipal purposes on either the property or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city in the accomplishment of the limited purpose or purposes for which the territory is annexed.

(Ord. No. 1984-11, Prop. 2, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

State Law reference— Annexations for limited purposes, V.T.C.A., Local Government Code, § 43.121 et seq.

## ARTICLE III. - THE CITY COUNCIL

### Sec. 3.01. - Number, selection and term.

- (a) The legislative and governing body of the city shall consist of seven council members and shall be known as the "City Council of San Marcos".
- (b) The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.
- (c) Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. The council member elected to the place of mayor shall hold office for a period of two years.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 3, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 1, 8-9-04)

### **Sec. 3.02. - Qualifications.**

- (a) Each member of the city council, in addition to having other qualifications prescribed by law:
  - (1) Shall be a qualified voter of the city;
  - (2) Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:
    - (A) The person must use the residence address for voter registration, and current driver's license or Texas identification card purposes;
    - (B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;
    - (C) The person must not claim a homestead exemption on any property other than the residence;
  - (3) Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;
  - (4) Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.
  - (5) Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city.
  - (6) Shall remain current on all financial obligations to the city relating to the duties of the council member.

- (b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Props. 2—4, 2-8-88/5-7-88; Ord. No. 1996-6, Prop. 1, 2-12-96/5-4-96; Ord. No. 1998-7, Prop. 3, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 2, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 2, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 1, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 1, 5-7-02/5-4-02; Ord. No. 2004-10, Prop. 1, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(4), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(4), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 10, 11, 8-20-13/11-5-13.)

**Sec. 3.03. - Reserved.**

**Editor's note—** Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.

**Sec. 3.04. - Compensation and reimbursement.**

City Council Compensation shall be set in a public forum by ordinance of the city council; and they shall be entitled to all necessary expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and of each council member. The mayor and the members of the city council shall be reimbursed for the amounts so provided for in the annual city budget for their actual official city business expenses. The city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement.

(Ord. No. 1984-11, Prop. 4, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 5, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 2, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 2, 5-7-02/5-4-02; Ord. No. 2008-29, § 2(5), 8-19-08/11-4-08)

**Sec. 3.05. - Mayor, mayor pro tempore and deputy mayor pro tempore.**

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and may shall in addition designate a deputy mayor pro tempore, who each shall serve in such capacity for a period of one year; provided, however, that in the event a runoff election is required the city council shall not designate a mayor pro tempore or deputy mayor pro tempore until the runoff election is completed and the duly elected candidates have been officially seated on the council. The mayor pro tempore shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if



present. The deputy mayor pro tempore shall act as mayor during the absence or disability of the mayor and mayor pro tempore, and shall have power to perform every act the mayor could perform if present.

(Res. No. 1974-5R, Prop. 2, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 5, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 3, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 4, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 4, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(6), 8-15-06/11-7-06)

### **Sec. 3.06. - Vacancies.**

(a) A special election to fill a vacancy shall be called in accordance with state law. In the event the mayor is unable to call a meeting to order the election for any reason, the mayor pro tem or deputy mayor pro tem are authorized and directed to call a meeting to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of mayor and all members of the city council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

- (1) The city manager.
- (2) The city clerk.
- (3) The city attorney.
- (4) The presiding judge of the municipal court.

(b) No such election shall be held sooner than 30 days from the date it is called.

(Ord. No. 1984-11, Prop. 6, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 2, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 6, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 1, 2-12-90/5-5-90; Ord. No. 1996-6, Prop. 4, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2013-44, Prop. 12, 8-20-13/11-5-13)

### **Sec. 3.07. - Powers and limitations of the city council.**

(a) All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council.

(b) The council shall have no power to, and shall not:

- (1) Sell, convey, lease, mortgage or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage or other alienation is to be made; provided, that the city council may, after a public hearing, authorize a lease of park property to another governmental entity or to a non-profit corporation or association for a term of up to three years if the council determines that the lease will further the use of the property for park purposes.
- (2) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a

general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(3) Accept or admit liability in, or pay, any claim for damages asserted against the city, without first obtaining a written opinion from the city attorney regarding the city's liability therein.

(c) The council will have the authority to approve the conveyance of land, right-of-way and easements owned by the city. Any such approval will be in the form of an ordinance, and no such ordinance may be adopted as an emergency measure.

(Ord. No. 1994-16, Prop. 2, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 5, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 5, 5-9-00/5-6-00)

State Law reference— Municipal home rule powers, Texas Const., art. 16, § 5; V.T.C.A., Local Government Code, §§ 26.001 et seq., 51.001, 51.071 et seq.

### **Sec. 3.08. - City council not to interfere in appointments or removals.**

Neither the council nor any of its members shall instruct or request the city manager or any of the city manager's subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 3.15 of this Charter, the council and its members shall deal with the administrative and management functions of the city solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 7, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

### **Sec. 3.09. - Meetings of the city council.**

The city council shall hold at least two regular meetings in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city **secretary clerk** upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

(Res. No. 1977-7R, Prop. 2, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 7, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 8, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 6, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 6, 5-9-00/5-6-00)



**Sec. 3.10. - Rules of procedure.**

The city council shall determine by ordinance its own rules of procedure and order of business. Four or more council members shall constitute a quorum, but no action of the council shall be of any force or effect unless it is adopted by the favorable votes of four or more of the council members. Minutes of all meetings of the council, including the vote of "ayes" and "noes" upon the passage of all ordinances and resolutions, shall be taken and recorded, and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

**Sec. 3.11. - Procedure for passage of ordinances.**

- (a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".
- (b) The city attorney shall approve the legality of all ordinances adopted prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.
- (c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.
- (d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.
- (e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:
  - (1) an ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or
  - (2) the adoption of an ordinance under a different procedure is expressly authorized by state law.
- (f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.
- (g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.
- (h) All ordinances shall be effective upon final reading or publication if publication is required by state law.

(Ord. No. 1986-4, Prop. 3, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 3, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 4, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(7), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(6), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 13, 14, 8-20-13/11-5-13)

### **Sec. 3.12. - Publication of ordinances.**

Except as otherwise provided by law or by this ~~Chapter, Charter~~ the city clerk shall give notice of the enactment of every penal ordinance by causing its caption and penalty, to be published at least one time within ten days following the date of final passage thereof in some newspaper of general circulation within the city. The city clerk shall give notice of the enactment of other ordinances by publishing in the newspaper only if publication is required by state law, this Charter, or city ordinance. The city clerk shall give notice of the enactment of all ordinances on the city's website.

The city clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(7), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 15, 8-20-13/11-5-13)

State Law reference— Publication of ordinances, V.T.C.A., Local Government Code, § 52.013.

### **Sec. 3.13. - Code of Ordinances.**

The council shall cause all general ordinances of the city to be compiled and printed in Code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available through electronic media and for purchase by the public at a reasonable price fixed by the council.

(Ord. No. 1988-15, Prop. 9, 2-8-88/5-7-88; Ord. No. 1998-7, Prop. 5, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

State Law reference— Adoption of codification, V.T.C.A., Local Government Code, § 53.001.

### **Sec. 3.14. - Official bonds for city employees.**

The council shall require bonds or insurance of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds or insurance shall be determined by the council and the cost thereof shall be borne by the city.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 16, 8-20-13/11-5-13)

### **Sec. 3.15. - Investigation by the city council.**

The city council shall have power to inquire into the official conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may



subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. Any person participating in such an investigation shall have all rights afforded by the Constitution and laws of the United States and the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(8), 8-19-08/11-4-08)

### **Sec. 3.16. - Audit and examination of city books and accounts.**

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Annual audit required, V.T.C.A., Local Government Code, § 103.001 et seq.

### **Sec. 3.17. - Expulsion or removal of city officials.**

- (a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members. The city council may remove council members including the mayor who are in substantial violation of or have substantially violated provisions of this charter; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.
- (b) The city council shall have the authority to remove any city official appointed by the city council, including members of city boards and commissions established under state law, by this Charter, or by ordinance, and the city manager, city clerk, city attorney and municipal court judge. Any such removal of a city official by the city council shall require a majority vote of the membership of the city council and shall be preceded by adequate notice to the official of the time and location of the meeting, the nature of the charge against the official, and an opportunity for a hearing. At any such hearing, evidence both for and against the city official may be offered for the council's consideration. The council may, by ordinance, provide for further or more detailed procedures pertaining to the removal of city official, not inconsistent with this provision.

(Ord. No. 2000-12, Prop. 7, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 7, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 2, 2-23-04/5-15-04; Ord. No. 2013-44, Prop. 17, 8-20-13/11-5-13)



## ARTICLE IV. - ADMINISTRATIVE SERVICES<sup>[3]</sup>

Footnotes:

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State Law reference— Creation of municipal officers, V.T.C.A., Local Government Code, § 26.041.

### Sec. 4.01. - City manager.

- (a) *Appointment and qualifications:* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.
- (b) *Term and salary:* The city manager shall not be appointed for a definite term, but may be removed by a vote of the majority five members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.
- (c) *Duties of the city manager:*
  - (1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.
  - (2) To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.
  - (3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.
  - (4) To keep the city council fully advised of the financial condition and needs of the city.
  - (5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.
  - (6) To perform other duties as provided by this Charter and as prescribed by the city council.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 6, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 4, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 3, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 3, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 3, 5-7-02/5-4-02; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(8), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(9), 8-19-08/11-4-08)

### Sec. 4.02. - City clerk.

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 1, 6-22-81/8-8-81; Ord. No. 1992-9, Prop. 5, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 4, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 8, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 8, 5-9-00/5-6-00; Ord. No. 2008-29, § 2(10), 8-19-08/11-4-08)

#### **Sec. 4.03. - Municipal court.**

- (a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.
- (b) The city council shall appoint a presiding judge for the municipal court and any associate judges it deems advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants with the approval of the city council.

(Res. No. 1974-5R, Prop. 3, 2-18-74/4-2-74; Res. No. 1977-7R, Props. 1, 4, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 2, 6-22-81/8-8-81; Ord. No. 1986-4, Props. 7, 9, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 10, 2-8-88/5-7-88; Ord. No. 1994-16, Prop. 5, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(11), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 18, 8-20-13/11-5-13 )

State Law reference— Municipal court, V.T.C.A., Government Code, § 29.001 et seq.

#### **Sec. 4.04. - City attorney.**

The city council shall appoint a city attorney, who shall be a competent and duly qualified and licensed attorney, authorized to practice law in the State of Texas. The city attorney shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The city attorney's compensation shall be fixed by the city council. The city attorney may appoint an assistant or assistants with the approval of the city council. The city attorney, or other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor and counsel for the city and all city officers and administrative units; provided, that the city council may retain special counsel at any time it deems same appropriate and necessary. The city attorney shall prepare or review all ordinances and shall prosecute all criminal cases in the municipal court in person or through an assistant.



(Ord. No. 1984-11, Prop. 9, 1-30-84/4-7-84; Ord. No. 1994-16, Prop. 6, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 19, 8-20-13/11-5-13)

#### **Sec. 4.05. - City auditor.**

The city council may appoint a city internal auditor who shall serve at the pleasure of the city council. The city council shall establish the duties and operating procedures of the city internal auditor by ordinance. The city council may enter into a contract for the duties of an internal auditor to be carried out by an outside firm if the council chooses to do so.

(Ord. No. 2010-44, §§ 2, 3, 8-17-10/11-2-10)

#### **Sec. 4.06. - Other administrative units.**

The city council may abolish or consolidate such administrative units as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such units as it may deem advisable; may create new administrative units, and may discontinue any administrative unit at its discretion, except those specifically established by this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 4.07. - Publication of salaries**

The salary of each city position shall be published on the city website.

### **ARTICLE V. - NOMINATIONS AND ELECTIONS<sup>[4]</sup>**

Footnotes:

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State Law reference— Municipal elections, V.T.C.A., Election Code, § 1.001 et seq.

#### **Sec. 5.01. - Elections.**

The regular city election shall be held annually on the first Tuesday after the first Monday in November as provided by state law.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 11, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(12), 8-19-08/11-4-08)

State Law reference— Uniform election dates, V.T.C.A., Election Code, § 41.001.

#### **Sec. 5.02. - Regulation of elections.**

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of

elections. The city council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 2)

#### **Sec. 5.03. - Filing for office.**

Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall take the oath of fair campaign practices provided in Section 258.004 of the Texas Election Code. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate's sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter. All campaign contributions and reports filed by candidates shall be legible.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 6, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 3, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(13), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 20, 8-20-13/11-5-13 )

#### **Sec. 5.04. - The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed included on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or the candidate's named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 5.05. - Election by majority.**

At any regular or special municipal election the candidates in each place on the ballot who shall have received the majority of votes cast in such election for such place shall be declared elected. In the event no candidate for a designated place on the city council receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the two candidates who received the greatest number of votes for such place. The runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the regular or special election is completed.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 11, 7-6-81/8-8-81; Ord. No. 1986-4, Prop. 11, 1-27-86/4-5-86; Ord. No. 1994-16, § 1.2, Prop. 7, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 12, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06)

**Sec. 5.06. - Laws governing city elections.**

All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this Charter, and ordinances of the city, in the order named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 5.07. - Conducting and canvassing elections.**

The returns of every municipal election shall be delivered by the election judges to the central counting station immediately after the closing of the polls. Returns of the elections, general and special, shall be presented to the city council on any date permitted by the Texas Election Code at which time the council shall canvass and declare the results of such election.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 20, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 9, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 9, 5-9-00/5-6-00)

**Sec. 5.08. - Oath of office.**

Every officer of the city shall take and subscribe to an oath or affirmation similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office. The oath or affirmation shall be in a form provided by the city clerk, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the city clerk.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 12, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 2, 2-12-90/5-5-90; Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Oath, Texas Const., art. 16, § 1.

**ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL**

**Sec. 6.01. - Power of initiative.**

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance or repeal any ordinance not in conflict with this Charter, the State Constitution, or the state laws. Any initiated ordinance may be submitted to the council by a petition signed by at least ten per cent of the qualified voters of the city.

(Res. No. 1979-14R, Prop. 11, 2-26-79/4-7-79; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

**Sec. 6.02. - Power of referendum.**

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified



voters of the city may be filed with the city secretary clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city secretary clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.

(Res. No. 1979-14R, Prop. 12, 2-26-79/4-7-79; Ord. No. 1986-4, Prop. 13, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

#### **Sec. 6.03. - Forms of petitions.**

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the council, the full text of the ordinance sought to be referred shall be included in such papers. Before signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath or affirmation before the city clerk or any other officer competent to administer oaths or affirmations, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person's presence.

(Res. No. 1974-5R, Prop. 4, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 8, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, §§ 1, 3; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

#### **Sec. 6.04. - Council consideration and submission to voters.**

- (a) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council, within 30 days after the date of the certification, shall either:
  - (1) Pass the initiated ordinance without amendment; or
  - (2) Call an election on the adoption of the initiated ordinance without amendments, to be held on the next uniform date authorized by state law for municipal elections which is at least 62 days after the date on which the council acts.

At the election, the council may submit the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the council; the voters being given the opportunity to accept or reject both. If both are accepted, then the ordinance receiving the greatest number of affirmative votes is adopted, and the other ordinance is deemed rejected. If both are accepted and receive the same number of affirmative votes, both are deemed rejected.

- (b) When the council receives an authorized referendum petition, certified by the city clerk to be sufficient the council shall reconsider the referendum ordinance, and within 30 days, shall either repeal the ordinance or call an election on the repeal of the ordinance, to be held on the next uniform date authorized by state law for municipal elections which is at least 45 days from the date on which the council acts.

- (c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

(Ord. No. 1984-11, Prop. 10, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 4, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

**Editor's note—** Ord. No. 2006-36, § 2(11), adopted Aug. 15, 2006, passed at referendum on Nov. 7, 2006, deleted § 6.04, in its entirety and renumbered §§ 6.05—6.11 as §§ 6.05—6.10 to read as set out herein. Former § 6.05 pertained to filling, examination and certification of petitions and derived from Ord. No. 1986-4, Prop. 14, adopted Jan. 27, 1986, passed at referendum on Apr. 5, 1986; Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; and an ordinance adopted Aug. 12, 2002, § 1.

#### **Sec. 6.05. - Results of elections.**

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. Except as otherwise provided in Section 6.05, if a majority of the legal votes cast is in favor of an initiated ordinance, it shall be effective as an ordinance of the city when the result of the election is declared. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of three-fourths of the council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

(Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.06. - Power of recall.**

- (a) The people of the city reserve the power to recall any elected officer of the City of San Marcos and may exercise such power by filing with the city clerk a petition demanding the removal of the officer, signed by at least ten per cent of the qualified voters of the city.
- (b) The recall petition shall be on a form approved by the city clerk. Any recall petition form supplied by the city clerk shall be valid for 45 days from the date of its issuance and the expiration date and time shall be noted on the petition form by the city clerk at the time of its issuance. All such forms must be returned to the city clerk before their respective expiration dates in order to be eligible to be verified and certified by the city clerk.

(Ord. No. 1986-4, Props. 15, 16, 1-27-86/4-5-86; Ord. No. 1996-6, Prop. 7, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 5, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.07. - Recall election.**

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient, the council shall order and hold an

election to determine whether such officer shall be recalled. The election shall be held on the date next authorized by state law for municipal elections which is at least 62 days after certification of the petition calling for the recall election.

(Res. No. 1974-5R, Prop. 5, 2-18-74/4-2-74; Ord. No. 1984-11, Prop. 11, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 6, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.08. - Results of recall election.**

If a majority of the votes cast at a recall election shall be against removal of the council member named on the ballot, that council member shall continue in office. If the majority of the votes cast at such election be for the removal of the council member named on the ballot, the council shall immediately declare that member's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council member thus removed shall not be a candidate in an election called to fill the vacancy thereby created.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.09. - Limitation on recall.**

No recall petition shall be filed against a council member within six months after taking office, and no council member shall be subjected to more than one recall election during a term of office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.10. - Examinations and certification of petitions.**

- (a) Within 45 days after an initiative, referendum or recall petition is filed, the city clerk shall determine whether the petition is properly signed by the requisite number of qualified voters. The city clerk shall use the standards and procedures described in state law to make this determination.
- (b) In examining a petition, the clerk shall clearly note signatures found to be invalid.
- (c) After completing examination of a petition, the clerk shall certify the result to the council at its next regular meeting.
- (d) If the certificate of the city clerk shows an initiative or referendum petition to be insufficient, the clerk shall comply with the provisions of state law regarding the filing of a supplementary petition, if applicable. Within 45 days after a supplementary petition is filed, the clerk shall examine the petition and certify as to its sufficiency. If the original petition and supplementary petition are found to be insufficient, no further proceedings shall be had with regard to them.

(Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

#### **Sec. 6.11. - Non-binding ballot propositions.**



The council is authorized to call elections on ballot propositions that are non-binding in nature when the council wishes to obtain an informal indication of the position of the city's voters on an issue. The following shall apply to elections on non-binding ballot propositions:

- (1) The ballots must clearly label each proposition as non-binding in the heading of the proposition.
- (2) The ballot cannot contain an indication of the effect that approval or disapproval of a proposition will have on the position of the city council on any issue.
- (3) The ordinance calling the election and the ordinance declaring the result of the election must both contain a clear statement that the non-binding propositions are not binding on the city council.
- (4) The city council shall not place a non-binding proposition on a ballot as a substitute or alternative for a binding proposition the council is obligated to place on the same ballot.
- (5) A non-binding proposition may be placed on the ballot by the council only when the ballot will contain other matters. The city council shall not call an election at any time solely for the purpose of placing one or more non-binding propositions before the voters of the city.

(Ord. No. 2002-12, Prop. 4, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 4, 5-7-02/5-4-02)

## ARTICLE VII. - MUNICIPAL PLANNING AND ZONING<sup>[5]</sup>

Footnotes:

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State Law reference— Planning and zoning, V.T.C.A., Local Government Code, § 211.001 et seq.

### Sec. 7.01. - Planning and zoning commission.

- (a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation.
- (b) To be eligible for appointment to the commission, ~~all eight of the~~ commission members must have resided ~~and owned real property~~ in the city for a period of ~~three~~ five years before the date of appointment, ~~and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment.~~ To be eligible for continued service on the commission, ~~t~~The commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction. Effective March 1, 2015 the ETJ member of the commission shall be deleted and a qualified city resident member shall be appointed.
- ~~[(c)]~~ To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.
- ~~(d)~~ The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.
- ~~(e)~~ d In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. No more than two

professional realtors may be appointed to the commission. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1990-8, Prop. 3, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 7, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 7, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(22), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 2—4, 25, 8-20-13/11-5-13)

#### **Sec. 7.02. - Powers and duties of the commission.**

The commission shall have the power and be required to:

- (1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall follow all city ordinances, rules, and regulations before making any recommendations to the City Council.
- (2) Review and be the final approval authority for the subdivision and platting of land within the city and its extraterritorial jurisdiction. The council or the commission may expressly delegate authority to approve certain minor subdivision plats to the director of the planning and development services department in accordance with the provisions of state law.
- (3) Hold a public hearing and recommend to the city council the approval or disapproval of any proposed change to the city's official zoning map.
- (4) Hold public hearings and approve or deny conditional use permit applications made under the city's zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a three-fourths vote of the council. Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning eCommission, Texas and Federal laws, San Marcos city ordinances and regulations. The decision on appeals before city council and will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. No filing fees shall be assessed for appeals to the city council.
- (5) Submit annually to the city council, not less than one hundred and twenty days prior to the beginning of the fiscal year, a list of recommended capital improvements found necessary or desirable.
- (6) Hold an annual public hearing on the Land Development Code and recommend any necessary or desirable changes to the council.
- (7) Perform an ongoing review of the city's comprehensive plan to include:
  - (a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;
  - (b) Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and

- (c) Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five years.
- (8) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.
- (9) Require information from the administrative units of city government in relation to the duties of the commission listed under this section.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 12, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 17, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 4, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 5, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 5, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(12), 8-15-06/11-7-06; Ord. No. 2013-44, Props. 5, 6, 8-20-13/11-5-13 )

**Editor's note—** The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.

#### **Sec. 7.03. - The comprehensive plan.**

- (a) The comprehensive plan for the City of San Marcos shall be used to guide the growth and development of the city. The comprehensive plan shall be adopted by ordinance. The city council will endeavor to ensure that city ordinances governing growth and development are consistent with the goals and policies contained in the comprehensive plan; however, land use maps and descriptions contained in the comprehensive plan do not constitute zoning, and do not entitle any property owner to any change in zoning.
- (b) The commission shall conduct an ongoing review of the plan in accordance with Section 7.02. The commission may recommend amendments to the comprehensive plan after at least one public hearing on the proposed action. The council may amend the comprehensive plan after at least one public hearing on the proposed action. The council shall not act on any amendment affecting the comprehensive plan unless and until a recommendation on the amendment is received from the commission.

(Ord. No. 1984-11, Prop. 14, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 18, 1-27-86/4-5-86; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 8, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 6, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 6, 5-7-02/5-4-02; Ord. No. 2013-44, Prop. 6, 8-20-13/11-5-13 )

**Editor's note—** The amendment adopted in Ordinance Number 1994-16 reenacted this section which was formerly Charter § 7.08.

#### **Sec. 7.04. - Organization.**

The commission shall elect a chair from its membership annually, and shall establish rules of procedure which shall include the following:

- (1) A quorum shall consist of a majority of the membership.
- (2) The chair shall be entitled to vote upon any question.



(3) All meetings shall be open to the public.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 10, 1-8-79/4-7-79; Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 9, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 2, 8-9-04)

## ARTICLE VIII. - FINANCIAL PROCEDURE<sup>[6]</sup>

Footnotes:

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State Law reference— Financial matters, V.T.C.A., Local Government Code, § 101.001.

### Sec. 8.01. - Fiscal year.

The fiscal year of the City of San Marcos shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Fiscal year, V.T.C.A., Local Government Code, § 101.022.

### Sec. 8.02. - Preparation and submission of budget.

~~(a)~~(c) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.

(b) By ~~April 30~~ March 31<sup>st</sup> of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

~~(c)~~(a) By February 27<sup>th</sup> of each year the city council shall hold a policy budget workshop.

(Res. No. 1977-7R, Prop. 6, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 15, 1-30-84/4-7-84; Ord. No. 1998-7, Prop. 9, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 7, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 7, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

State Law reference— Budgets, V.T.C.A., Local Government Code, § 102.001 et seq.

### Sec. 8.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.04. - Proposed expenditures compared with other years.**

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.05. - Budget a public record.**

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city's website.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.06. - Notice of public hearing on budget.**

Not less than 30 days before the date the city council adopts the budget, the city council shall fix the time and place of public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City of San Marcos, and through electronic media, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof, the time for which publication shall be in accordance with applicable law.

(Ord. No. 1981-51, Prop. 5, 7-6-81/8-8-81; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

**Sec. 8.07. - Public hearing on budget.**

At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained. Copies of the proposed budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 21, 8-20-13/11/5/13.)

**Sec. 8.08. - Proceedings on budget after public hearing.**

As a result of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.09. - Adoption after public hearing.**

The budget and the tax rate shall be adopted, after public hearings, in compliance with State law. Copies of the budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1979-2R, Prop. 6, 1-8-79/4-7-79; Ord. No. 1992-9, Prop. 11, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 22, 8-20-13/11-5-13 )

**Sec. 8.10. - Date of final adoption.**

The budget and the tax rate shall be finally adopted not later than the expiration of the fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

**Sec. 8.11. - Effective date of budget; certification; copies made available.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk and such other officials as may be designated by law. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 10, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.12. - Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.13. - Budget establishes amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy for the purposes of the city in the corresponding tax year; provided, that such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

**Sec. 8.14. - Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of and distributed by the city manager after approval of the city council. Expenditures from this appropriation shall be made

only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

**Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.16. - Other necessary appropriations.**

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.17. - Purchase procedure.**

No contract or order shall be binding upon the city unless and until the city manager or the manager's designated representative certifies that there is to the credit of such administrative unit a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance convey upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not requiring competitive bidding or proposals under state law. All purchases shall be made in accordance with applicable ordinances and state law. When required, notice of solicitation for competitive purchases of goods and services shall appear on the city's website and on an internet site for governmental procurements and may also be published in a newspaper of general circulation in the city.

(Res. No. 1977-7R, Props. 1, 7, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 13, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 16, 1-30-84/4-7-84; Ord. No. 1986-4, Props. 19—21, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 12, 2-8-88/5-7-88; Ord. No. 1992-9, Prop. 12, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(15), 8-19-08/11-4-08)

**ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS<sup>[7]</sup>**

Footnotes:

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State Law reference— Authority to issue bonds, Vernon's Ann. Civ. St. art. 701 et seq., art. 823 et seq.; authority to issue bonds for public improvements, Vernon's Ann. Civ. St. art. 11751.

**Sec. 9.01. - Power to borrow.**

The City of San Marcos shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose not prohibited by the constitution or statutes of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered a general indebtedness of the city nor repaid with funds secured by taxation.

(Ord. No. 1996-6, Prop. 9, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 9.02. - Bond record.**

The city manager or the manager's designated representative shall prepare, maintain and cause to be filed in the city manager's office a complete bond record, showing all bonds and certificates of obligation, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of San Marcos. A copy of the bond record shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1992-9, Prop. 13, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(14), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(16), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 23, 8-20-13/11-5-13 )

**Sec. 9.03. - Misapplication of bond funds.**

Any officer or employee of the City of San Marcos who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 4)

**ARTICLE X. - TAX ADMINISTRATION<sup>[8]</sup>**

Footnotes:

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State Law reference— Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code, § 302.001 et seq.

**Sec. 10.01. - Tax administration.**



The city council shall provide for the administration and collection of property taxes in accordance with state law. This may be accomplished through interlocal agreement with another taxing unit whose taxing jurisdiction overlaps all or part of the city's taxing jurisdiction.

(Ord. No. 1981-51, Prop. 6, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 14, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 3, 8-9-04)

#### **Sec. 10.02. - Power to tax.**

The City Council of the City of San Marcos shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each \$100.00 assessed valuation of all real and personal property within the corporate limits of the City of San Marcos and not exempt from taxation by the constitution and laws of the State of Texas; however, provisions must be made annually to assess and collect a sum sufficient to pay the interest on any debts of the city and to create a sinking fund of at least two percent of such debt.

(Res. No. 1977-7R, Prop. 8, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13 )

#### **Sec. 10.03. - Property subject to tax, methods of assessment.**

All real and tangible personal property that the State of Texas has jurisdiction to tax, shall be subject to annual taxation by the City of San Marcos unless exempted by state law if the real property is located within the corporate limits of the City of San Marcos on January 1 and the tangible personal property is:

- (1) Located in the City of San Marcos on January 1 for more than a temporary period;
- (2) Normally located in the City of San Marcos, even though it is outside the city on January 1, if it is outside the city only temporarily;
- (3) Normally returned to the City of San Marcos between uses elsewhere and is not located in any one place for more than a temporary period; or
- (4) That in which the owner resides (for property not used for business purposes) or maintains his principal place of business in Texas (for property used for business purposes) in the City of San Marcos and the property is taxable in Texas but does not have a taxable situs pursuant to (1)—(3) above.

All procedures and actions relating to property taxation shall be conducted pursuant to the requirements of the Texas Property Tax Code. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of San Marcos, shall render said property as required by the Texas Property Tax Code and the chief appraiser of the Hays County Appraisal District.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 17, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 10.04. - Reserved.**

**Editor's note—** A Charter amendment adopted April 7, 1984, deleted § 10.04, pertaining to the board of equalization. The section derived unamended from the city's Home Rule Charter as adopted Feb. 24, 1967, and has been reserved for future use.

**Sec. 10.05. - Taxes; when due and payable.**

All taxes due the City of San Marcos shall be payable at the office of the city assessor-collector and may be paid at any time after October 1. Unless otherwise provided by State law, taxes for each tax year shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to penalty and interest at the maximum percentage permitted by law.

(Ord. No. 1981-51, Prop. 7, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 19, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(18), 8-19-08/11-4-08)

**Sec. 10.06. - Seizure and sale of personal property.**

Personal property is subject to seizure for the payment of a delinquent tax, penalty and interest owed the City of San Marcos. Personal property is subject to seizure for the payment of a tax imposed by the City of San Marcos on property before the tax becomes delinquent as provided by the Texas Property Tax Code. Sale of such seized property shall be pursuant to the federal and state constitution and the Texas Property Tax Code.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 20, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 10.07. - Tax liens.**

- (a) The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1, in each year until the taxes are paid.
- (b) Personal property may not be seized and a suit may not be filed:
  - (1) To collect a tax on personal property that has been delinquent more than four years; or
  - (2) To collect a tax on real property that has been delinquent more than 20 years.
- (c) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.
- (d) The city's tax lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. All persons or corporations owning or holding personal property or real estate in the City of San Marcos on the first day of January of each year shall

be liable for all municipal taxes levied thereon for such year. The City of San Marcos is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 1984-11, Prop. 21, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 4, 8-9-04)

#### **Sec. 10.08. - Tax remissions, discount, and compromises.**

The city council or any other official of the city shall never extend the time for payment of taxes or remit, discount or compromise any tax legally due the city or waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the city for such year or years except as permitted by state law; provided, however, that this provision shall not prevent the compromise of any tax suit.

(Ord. No. 1988-15, Prop. 13, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00)

### **ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES<sup>[9]</sup>**

Footnotes:

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State Law reference— Authority, Vernon's Ann. Civ. St. arts. 1175, 1181, 1182.

#### **Sec. 11.01. - Definitions; powers of the city council.**

(a) In this article:

- (1) "Public service company" means any company, individual, partnership, corporation or other entity recognized by law that uses the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to public utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.
- (2) "Public utility" means any water, wastewater, gas, electricity or telecommunications utility that operates or offers service in the city.
- (3) "Telecommunications utility" includes any company that provides or offers to provide telephone, cable television or other similar services for the transmission of voice, data or video information.

(b) The city council has the following powers regarding public service companies of every character operating in the city:

- (1) To buy, condemn, construct, lease, **maintain**, and operate public utility systems in the city;
- (2) To sell, **manufacture**, and distribute the services and output of city public utility systems;
- (3) To prohibit the use of city streets, alleys, easements or other grounds by a public service company unless the company first obtains a franchise, permit, certificate or other authorization in accordance with this article and applicable ordinances; and
- (4) To regulate public service companies in the interest of public health, **welfare**, and safety.

(c) The authority of the council under this article is subject to federal and state laws regarding public utilities. The provisions of this article will be disregarded to the extent of any conflict between them and federal and state laws.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

**Sec. 11.02. - Power to grant franchise.**

The council shall have the power, by ordinance, to grant, renew, **extend**, and amend all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than five years from the date of the grant, renewal or extension.

(Ord. No. 1988-15, Prop. 14, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

**Sec. 11.03. - Reserved.**

**Editor's note**— Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 11.03 in its entirety. Former § 11.03 pertained to authorizations not to be exclusive and derived from Ord. No. 1988-15, Prop. 14, adopted Feb. 8, 1988, passed at referendum on May 7, 1988; Ord. No. 2000-12, Prop. 12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; Ord. No. 2000-40, Prop. 12, adopted May 9, 2000, passed at referendum on May 6, 2000.

**Sec. 11.04. - Ordinance granting franchise; public hearing.**

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, **and shall be made available at the San Marcos Public Library, at City Hall and on the city's website**, and the expense of such publication shall be borne by the applicant for the franchise.

(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

**Sec. 11.05. - Transfer of franchise.**

No public utility franchise shall be assigned or transferred except with the approval of the council expressed by ordinance. The term "assigned or transferred" includes a transfer of a controlling interest in stock, and an assignment or transfer to an affiliated or subsidiary person or company, but the term does not include the pledging of a franchise as security for a valid debt or mortgage.

(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

**Sec. 11.06. - Franchise value not to be allowed.**

No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city, or in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.07. - Right of regulation.**

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

- (1) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.
- (2) To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain plant and fixtures at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To impose regulations to ensure safe, efficient and continuous service to the public.
- (5) To collect from every franchise holder its fair and just proportion of the expense of maintaining areas of public property occupied by the franchise holder, or to compel the franchise holder to perform its fair and just share of the work of maintaining areas of public property occupied by the franchise holder at its own expense.
- (6) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation.
- (7) To prescribe the form of accounts kept by such utility.
- (8) To require such compensation and rental as may be permitted by federal or state law.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.08. - Public service companies to file annual reports.**

The city council by ordinance shall require each public service company operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the company for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the public service company. These reports shall be filed with the city clerk, and preserved for the use of the city council. The reports may be reviewed periodically by the council to determine the propriety of the rates being charged and will be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(15), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 24, 8-20-13/11-5-13 )

#### **Sec. 11.09. - Regulation of rates.**

The council shall have the power to:

- (1) Regulate by ordinance the rates of every public service company operating in the city, provided that no such ordinance shall be passed as an emergency measure;
- (2) Employ expert advice and assistance in determining a rate and equitable profit to the public service company; and shall have the power to require, as a condition precedent to any hearing concerning rates and service of a company, that the company pay the cost of such expert advice and assistance as chosen and deemed necessary by the council.

(Ord. No. 1988-15, Prop. 15, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

#### **Sec. 11.10. - Municipally owned utilities.**

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

#### **Sec. 11.11. - Regulation of city owned public utilities.**

The council has authority to supervise and regulate the operations of city owned public utilities, including the following:

- (1) To establish the rates, terms and conditions for the sale of utility services.
- (2) To prescribe rules and standards for the construction, extension, maintenance and operation of production, transmission and distribution facilities.

The council may exercise this authority itself, or it may delegate all or part of the authority to a board of citizens to oversee one or more of the city's public utilities.

(Ord. No. 1996-6, Prop. 11, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

### **ARTICLE XII. - GENERAL PROVISIONS**



#### Sec. 12.01. - Public access to records.

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

(Ord. No. 1988-15, Prop. 16, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 5, 8-9-04)

State Law reference— Public records act, V.T.C.A., Government Code, § 552.001 et seq.

#### Sec. 12.02. - Personal interest and code of ethics.

- (a)
  - (1) All elected and appointed officers of the city shall comply with applicable requirements of state law and city ordinances pertaining to conflicts of interest of local government officials.
  - (2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official – even if such a change is temporary. For this part “significant” means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.
  - (3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.
  - (4) For a period of two years from the date of leaving office a city council member shall not have any financial interest in the sale to the city of any land, materials, supplies, or service. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council.
- (b) It is the policy of the City of San Marcos that all city officials and employees shall act and conduct themselves both inside and outside the city's service so as to give no occasion for distrust for their integrity, impartiality or of their devotion to the best interest of the City of San Marcos and the public trust which it holds. To this end and to expressly assure its accomplishment, the city council shall establish and maintain an ethics review commission, and shall adopt and maintain a code of ethics for officials and employees of the City of San Marcos in ordinance form. The city council shall appoint an ethics review commission composed of seven citizens of the City of San Marcos to serve three-year staggered terms. A chair shall be elected by a majority of the commission after the annual appointment of members to the commission.

(c) Duties of the ethics review commission:

- (1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.
- (2) Conduct hearings into allegations of violations of the city's code of ethics, or a state conflict of interest law, or the city charter according to the procedures set forth in the city's ethics ordinance.
- (3) Render advisory opinions on potential conflicts of interest, or violation of the city's code of ethics, or the city charter at the request of a public official or employee covered by the code of ethics.
- (4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, or a state conflict of interest law, or the city charter.
- (5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

(Res. No. 1979-2R, Props. 5, 7, 1-8-79/4-7-79; Ord. No. 1986-4, Props. 22—24, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 17, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 5, 2-12-90/5-5-90; Ord. No. 1998-7, Prop. 11, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(16), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(20), 8-19-08/11-4-08)

**Sec. 12.03. — Nepotism and Conflict of Interest**

The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.

- (a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For purposes of this section, the following are defined as public officials:

- (1) The mayor and members of city council
- (2) City Manager
- (3) City Clerk
- (4) City Attorney
- (5) Presiding judge of the municipal court

- (b) No city employee shall be regularly directly supervised by a relative, sexual partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, sexual partner, or roommate. The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city's Director of Human Resources.

- (1) Relatives: Includes the first, second, and third degree of consanguinity (blood or adoption); and the first and second degree of affinity (marriage). Common law marriages as recognized by the State of Texas will also be included for purposes of this section.
- (2) Roommates: Individuals who share the same living quarters.



- (3) Sexual Partner: Persons in a consensual sexual relationship but are not married to one another.
- (c) To avoid the appearance and risk of impropriety a public official shall not appoint his or her business associates to public commissions and boards. Business associate is defined to include
  - (1) a public official's outside employer, outside employee, outside supervisor, or inside subordinate
  - (2) a public official's relative's outside employer, outside employee, outside supervisor, or outside subordinate
  - (3) the public official's outside client;
  - (4) the public official's outside business partner, including
    - (A) Owning 10 percent or more of a business entity in which the public official also owns 10 percent or more
    - (B) Owning real property with a fair market value of \$2,500 or more in partnership with the public official
  - (C) In an outside legal contract for business goods or services valued at \$2,500 or more with the public official

(Ord. No. 1994-16, Prop. 9, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Nepotism, V.T.C.A., Government Code, § 573.001 et seq.

#### **Sec. 12.04. - Provisions relating to assignment, execution and garnishment.**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Garnishment, V.T.C.A., Local Government Code, §§ 51.076(b), 101.023.

#### **Sec. 12.05. - City not required to give security or execute bond.**

It shall not be necessary in any action, suit or proceeding in which the City of San Marcos is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 12.06. - Special provisions covering damage suits.**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in that person's behalf shall give the city manager or the person performing the duties of city clerk, notice in writing within 90 days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. Provided however, that the ninety-day notice requirement of this section may be extended by a court of competent jurisdiction for good cause shown if the injured party has exercised due diligence, if any delay in giving the notice required by this section is not the result of conscious indifference by the party and if there is no substantial harm to the city caused by the delay. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of 30 days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city clerk. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of San Marcos waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 9, 7-6-81/8-8-81; Ord. No. 1988-15, Prop. 18, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

State Law reference— Tort claims, V.T.C.A., Civil Practice and Remedies Code, § 101.101 et seq.

**Sec. 12.07. - Separability clause.**

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 12.08. - Effect of this Charter on existing law.**

All ordinances, resolutions, rules, and regulations now in force under the city government of San Marcos and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of San Marcos under existing franchises and contracts are preserved in full force and effect to the City of San Marcos.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 12.09. - Holdover of officers.**

All officers of the city, including appointed members of city boards and commissions, shall continue to perform the duties of their offices until their successors are duly qualified.

(Ord. No. 2002-12, Prop. 8, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 8, 5-7-02/5-4-02)

**Editor's note**— Former § 12.09, interim municipal government, was deleted by Ord. No. 1992-9, adopted Feb. 10, 1992, Prop. 15. The deleted provisions derived from the Home Rule Charter adopted at an election held Feb. 24, 1967.

**Sec. 12.10. - Applicability of general laws.**

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of San Marcos. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of San Marcos shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08)

**Sec. 12.11. - Amending the Charter.**

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by state law and in compliance with the provisions of this Charter pertaining to the holding of elections, including the requirements in Section 6.03 for verification of signatures on any petition paper that have been continuously in effect since the adoption of the original city charter on February 24, 1967.

(Ord. No. 1992-9, Prop. 16, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2015-32, § 2, 8-18-15/11-3-15)

**Sec. 12.12. - Charter review commission.**

Beginning in January 2013 and at least every four years thereafter, the city council shall appoint a Charter review commission of seven citizens of the City of San Marcos.

(a) *Duties of the commission:*

- (1) Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.
- (2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the city government.
- (3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions.
- (4) Report its finding and present its proposed amendments, if any, to the city council.

- (b) The city council may take action to amend the Charter in the manner provided by state law.

- (c) *Term of office:* The term of office of such Charter review commission shall be six months, and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city clerk and shall become a public record.

(Ord. No. 1986-4, Props. 25, 26, 1-27-86/4-5-86; Ord. No. 1992-9, Props. 16, 17, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-09, § 2(1), 8-19-08/11-4-08)

**Sec. 12.13. - Reserved.**

**Editor's note—** Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 12.13 in its entirety. Former § 12.13 pertained to non-substantive changes and corrections to Charter provisions and derived from Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000.

**Sec. 12.14. - Reserved.**

**Editor's note—** Former § 12.14 relative to the manner of the original adoption of the Charter by the voters has been deleted by proposition number 27 of the Apr. 5, 1986 Charter amendments.

**Sec. 12.15. - Fluoridation of municipal water supply.**

The City of San Marcos shall not add, or direct or require its agents to add fluoride in the form of hydrofluorosilicic acid, hexafluorosilicic acid, or sodium silicofluoride to the San Marcos municipal water supply.

(Ord. No. 2015-32, § 2, 8-18-15/11-3-15)



MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
FEBRUARY 9, 2017

Members Present: Kama Davis  
Daniel Guerrero  
Paul Mayhew, Chair  
Amy Meeks  
Perry Moore  
Todd Salmi  
Shane Scott

City Attorney: Michael Cosentino

Recording Secretary: Tina Moreno

Others Present: Don Eyssen, Forrest Fulkerson, and Tom Wassenich

The meeting was called to order at 5:45 p.m. by Mr. Cosentino.

Ms. Moreno administered the Oaths of Office to newly appointed members.

Mr. Mayhew stated he would like to place his name for consideration as Chair. There were no other nominations. A motion was made by Mr. Scott, seconded by Ms. Davis, that Mr. Mayhew be appointed Chair. The motion carried by the following vote:

For:	5 - Davis, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	1 - Mayhew

Chair Mayhew introduced the nomination of Vice-Chair. Ms. Davis stated she would like to place her name for consideration as Vice-Chair. There were no other nominations. A motion was made by Ms. Davis, seconded by Mr. Moore, that Ms. Davis be appointed Vice-Chair. The motion carried by the following vote:

For:	5 - Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	1 - Davis

Chair Mayhew introduced the Citizen Comment Period. Three (3) citizens were present: Mr. Don Eyssen, Mr. Forrest Fulkerson, and Mr. Tom Wassenich. All three declined to speak during the Citizen Comment Period.

Chair Mayhew introduced the next agenda item, "Discuss and consider approval of the meeting schedule and approach to Charter review." (Mr. Guerrero arrived at 5:52 p.m.) A motion was made by Mr. Guerrero, seconded by Mr. Scott, that the Commission would meet at 5:30 p.m. every Thursday for the next eight (8) weeks, with the exception of Spring Break Week and Holy Week (so February 16<sup>th</sup> through April 20<sup>th</sup>). The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

A motion was made by Ms. Meeks, seconded by Mr. Guerrero, that the Commission approach the Charter section by section (beginning at Article I and ending with Article 12) and addressing the requests made by Council and staff when applicable. The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Chair Mayhew introduced the next agenda item, "Begin section by section review of City Charter." After reviewing **ARTICLE I. – FORM OF GOVERNMENT AND BOUNDARIES**, a motion was made by Ms. Davis, seconded by Mr. Guerrero, to strike-through all references of the term "municipal government" and replace with "city government" throughout entire Charter to allow clarity, consistency and utilization of plain language. The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

After reviewing **ARTICLE II. – POWERS OF THE CITY**, a motion was made by Ms. Davis, seconded by Ms. Meeks, that the term "city" be lower-cased throughout the Charter, according to grammar rules, unless you specify which city is being referenced (i.e., City of San Marcos). The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0


A second motion was made by Ms. Davis, seconded by Mr. Guerrero, that correct punctuation be incorporated throughout the Charter (i.e., appropriate usage of colon and semi-colon signs when numbering a list of items). The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." Mr. Eyssen addressed the Commission on whether their action meeting minutes would include notes on dissenting votes. Mr. Salmi responded that the Commission has not made a decision or taken any action on this item. Mr. Cosentino also responded that the action minutes would certainly include the roll call votes. Mr. Fulkerson addressed the Commission regarding web page inconsistencies between departments and boards and commissions. He suggested more uniformity in terms of information provided and how presented. Mr. Salmi responded that some discussion has been made on this item but no action has been taken. Mr. Fulkerson further recommended there be multiple means of media for publication notices, to prevent access limitations. Ms. Davis responded that some discussion has been made on this item and more will be forthcoming. Mr. Fulkerson then addressed the Commission on whether citizens and/or groups are allowed to make presentations to the Commission on items of concern. Mr. Cosentino responded that items of concern can be submitted any time to the Charter staff liaisons and must be agendaized for discussion and/or presentation. Mr. Salmi also responded by requesting that the Charter Review Commission web page include information for public input on items of concern.

Ms. Davis moved for adjournment at 7:26 p.m., seconded by Mr. Salmi. The motion passed with the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
FEBRUARY 16, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Todd Salmi Shane Scott
Members Absent:	Daniel Guerrero
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Tom Wassenich

The meeting was called to order at 5:34 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Mr. Tom Wassenich was present. However, he elected to not sign in to speak during the Citizen Comment Period.

Chair Mayhew introduced the next agenda item, "Discuss and review the usage of the terms: "city" and "municipal" as used in San Marcos' City Charter. Ms. Moreno identified the terms: "city" and "municipal," in highlighted-colors throughout the entire charter, as requested, and found no other instances where "municipal government" needed to be changed or addressed.

Chair Mayhew introduced the next agenda item, "Begin section by section review of City Charter, including but not limited to Article 3 – The City Council." After reviewing **Sec. 3.01. – Number, selection, and term**, a motion was made by Mr. Scott, seconded by Mr. Moore, to change the term for Mayor from a 2-year term to a 4-year term. The motion failed by the following vote:

For:	2 - Moore and Scott
Against:	4 - Davis, Mayhew, Meeks, and Salmi
Absent:	1 - Guerrero
Abstain:	0

A second motion was made by Mr. Moore, seconded by Mr. Scott, to not change to single-member districts. The motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0



Absent: 1 - Guerrero  
Abstain: 0

After reviewing **Sec. 3.02. - Qualifications**, a motion was made by Mr. Moore, seconded by Ms. Meeks, that the following amendment be made to item (a)(6): "Shall remain current on all financial obligations to the city ~~relating to the duties of the council member.~~" The motion carried by the following vote:

For: 4 - Mayhew, Meeks, Moore, and Scott  
Against: 2 - Davis and Salmi  
Absent: 1 - Guerrero  
Abstain: 0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." Mr. Wassenich addressed the Commission on what where the requests from the city council for the commission to review in the charter. Mr. Cosentino provided Mr. Wassenich a copy of the entire list. Mr. Wassenich then inquired on whether disclosure of ongoing purchases of property while on council would be addressed by the Commission. Mr. Cosentino responded that the item has been addressed by the Ethics Review Commission and they will be making a proposal to the city council (possibly the second council meeting in March 2017). The proposal would be to amend the financial disclosure form to have the mayor and city council be required to report new interest in real estate within 30 days of purchase. Mr. Wassenich stated that was good but then inquired on whether this item would also be incorporated into the city charter. Mr. Cosentino responded that it could be.

Chair Mayhew adjourned the meeting at 7:06 p.m.

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
FEBRUARY 23, 2017

Members Present:

Kama Davis  
Daniel Guerrero  
Paul Mayhew, Chair  
Amy Meeks  
Perry Moore  
Todd Salmi  
Shane Scott

City Attorney:

Michael Cosentino

Recording Secretary:

Tina Moreno

The meeting was called to order at 5:35 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present.

Chair Mayhew introduced the approval of the minutes of the Regular Meeting of February 9, 2017. A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve the minutes. The motion passed by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Scott
Against:	0
Absent:	0
Abstain:	2 - Guerrero and Salmi

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 3 – The City Council and Article 4 – Administrative Services." After reviewing **Sec. 3.01. – Number, selection, and term**, a motion was made by Mr. Guerrero, seconded by Ms. Davis, to maintain current terms for mayor (2-year) and council members (3-year). The motion passed by the following vote:

For:	5 - Davis, Guerrero, Mayhew, Meeks, and Salmi
Against:	2 - Moore and Scott
Absent:	0
Abstain:	0

A second motion was made by Ms. Davis, seconded by Mr. Guerrero, to use the term "mayor pro tem" in place of "mayor pro tempore" and "mayor pro temp" to allow consistency throughout entire charter. The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott  
 Against: 0  
 Absent: 0  
 Abstain: 0

After reviewing **Sec. 3.02. - Qualifications**, a motion was made by Mr. Guerrero, seconded by Ms. Davis, that the following amendment be made to item (a)(2)(A): "The person must use the residence address for voter registration, and current driver's license or Texas identification card purposes;" The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 1 - Salmi  
 Absent: 0  
 Abstain: 0

After reviewing **Sec. 3.05 – Mayor, mayor pro tempore and deputy mayor pro tempore**, a motion was made by Mr. Salmi, seconded by Ms. Davis, that the following amendment be made to the third sentence: "At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and may shall in addition designate a deputy mayor pro tempore, who each shall serve in such capacity for a period of one year;" The motion carried by the following vote:

For: 7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott  
 Against: 0  
 Absent: 0  
 Abstain: 0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." None were present.

Mr. Scott moved for adjournment at 6:55 p.m., seconded by Ms. Meeks. The motion passed with the following vote:

For: 5 - Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 0  
 Absent: 1 - Salmi (left at 6:46 p.m.)  
 Abstain: 1 - Davis

  
 Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
MARCH 2, 2017

Members Present:	Kama Davis Daniel Guerrero Paul Mayhew, Chair Amy Meeks Perry Moore Shane Scott
Members Absent:	Todd Salmi
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Jamie Lee Case

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present.

Chair Mayhew introduced the approval of the minutes of the Regular Meeting of February 16, 2017. A motion was made by Mr. Scott, seconded by Mr. Guerrero, to approve the minutes. The motion passed by the following vote:

For:	5 - Guerrero, Mayhew, Meeks, Moore, and Scott
Against:	0
Absent:	2 - Davis (arrived at 5:33 p.m.) and Salmi
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 3 – The City Council, Article 4 – Administrative Services, and Article 5 – Nominations and Elections." A motion was made by Mr. Guerrero, seconded by Mr. Scott, to amend item (b) of **Sec. 3.11. – Procedure for passage of ordinances**, to read as follows: "The city attorney shall approve [by written instrument] the legality of all ordinances before they are submitted to the Council, or shall file with the city clerk written legal objections thereto." Mr. Guerrero amended his motion to strike the words "submitted to" and replace with "considered by," which was seconded by Mr. Scott. After discussion, Mr. Guerrero made a second amendment to strike the words "by written instrument," motion was seconded by Mr. Scott. After more discussion, the original motion was withdrawn by Mr. Guerrero and Mr. Scott. Mr. Guerrero made a new motion, seconded by Mr. Scott, to amend item (b) to read as follows: "The city attorney shall approve the legality of all ordinances adopted prior to consideration by the council, or shall file with the city clerk written legal objections thereto." The motion passed by the following vote:



For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 0  
 Absent: 1 - Salmi  
 Abstain: 0

Mr. Guerrero made a motion, seconded by Mr. Scott, to amend **Sec. 4.02 – City clerk** to permit usage of electronic signatures. The amendment would read as follows: “The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions...”. The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 0  
 Absent: 1 - Salmi  
 Abstain: 0

A motion was made by Mr. Guerrero, seconded by Mr. Scott, to amend **Sec. 5.04 – The official ballot** to read as follows: “The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be ~~printed~~ included on the official ballots without party designation.” The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 0  
 Absent: 1 - Salmi  
 Abstain: 0

Mr. Guerrero made a motion, seconded by Mr. Scott, that item (b) of **Sec. 7.01 – Planning and zoning commission** be amended by removing the last sentence to reflect the effect of actions taken March 1, 2015: “~~Effective March 1, 2015 the ETJ member of the commission shall be deleted and a qualified city resident member shall be appointed.~~”. The motion carried by the following vote:

For: 6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott  
 Against: 0  
 Absent: 1 - Salmi  
 Abstain: 0

A motion was made by Mr. Guerrero, seconded by Ms. Davis, that the following language be added to **Sec. 3.08 – The City council not to interfere in appointments or removals**: “If the mayor or a member of the city council violates Section 3.08 of the city charter the offending party or parties will be subject to an immediate review and censure by the city council.” After some discussion, the motion was withdrawn by Mr. Guerrero and Ms. Davis to allow further study into this item.

Chair Mayhew made a motion, seconded by Mr. Scott, to amend **Sec. 3.04 – Compensation and reimbursement** by adding the following sentence: “The city clerk shall post all receipts and corresponding paperwork for council reimbursement of travel and business expenses on the city’s

website.” After some discussion, the motion was withdrawn by Chair Mayhew and Mr. Scott to allow further study into this item.

Ms. Davis made a motion, seconded by Mr. Guerrero, to exclude term limits for mayor and city council members and not change the procedures in **Sec. 3.01- Number, selection and term**. The motion carried by the following vote:

For:	5 - Davis, Guerrero, Mayhew, Meeks, and Moore
Against:	1 - Scott
Absent:	1 - Salmi
Abstain:	0

Mr. Guerrero made a motion, seconded by Ms. Meeks, that all references of the term “city secretary” be replaced with “city clerk” throughout entire charter. The motion carried by the following vote:

For:	6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against:	0
Absent:	1 - Salmi
Abstain:	0

A motion was made by Mr. Scott, seconded by Mr. Guerrero, to amend item (b) of **Sec. 4.01 – City Manager** and have the first sentence read as follows: “Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of the super majority of the entire council.” After some discussion, the motion was withdrawn by Mr. Scott and Mr. Guerrero. A new motion was made by Mr. Scott, seconded by Mr. Guerrero, for the sentence to read: “Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of ~~the majority~~ five members of the entire city council.” After more discussion, the motion was withdrawn by Mr. Guerrero, for the time being.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present.

Mr. Guerrero moved for adjournment at 8:10 p.m., seconded by Mr. Moore. The motion passed with the following vote:

For:	6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Scott
Against:	0
Absent:	1 - Salmi
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
MARCH 9, 2017

Members Present:	Kama Davis Daniel Guerrero Paul Mayhew, Chair Amy Meeks Perry Moore Todd Salmi Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Brett Thorne

The meeting was called to order at 5:32 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period.

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of February 23 and March 2, 2017. The motion passed by the following vote:

For:	4 - Mayhew, Meeks, Moore, and Scott
Against:	0
Absent:	2 - Davis and Guerrero (5:40 p.m. arrival for both)
Abstain:	1 - Salmi

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 6 – Initiative, Referendum and Recall, Article 7 – Municipal Planning and Zoning, and Article 8 – Financial Procedure." A motion was made by Mr. Scott, seconded by Mr. Guerrero, to amend item (b) of **Sec. 4.01. – City manager**, to read as follows: "The city manager shall not be appointed for a definite term, but may be removed by a vote of ~~the~~ majority five members of the entire city council."

For:	4 - Guerrero, Mayhew, Moore, and Scott
Against:	3 - Davis, Meeks, and Salmi
Absent:	0
Abstain:	0

Mr. Salmi made a motion, seconded by Mr. Scott, to amend item (b) of **Sec. 7.01 – Planning and zoning commission** to remove ETJ residency requirement. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided and owned real property in the city for a period of three years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, ~~and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.~~” The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend item (b) of **Sec. 7.01 – Planning and zoning commission** to eliminate ownership of real property. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided ~~and owned real property~~ in the city for a period of three years before the date of appointment, and the remaining member must have resided ~~and owned real property~~ in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence ~~and property ownership~~ in the city, ~~and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.~~” After some discussion, an amendment to the main motion was made by Mr. Moore, seconded by Ms. Davis, to extend the residency requirement from three years to five years. The amendment would read as follows: “To be eligible for appointment to the commission, eight of the commission members must have resided ~~and owned real property~~ in the city for a period of three five years before the date of appointment, and the remaining member must have resided ~~and owned real property~~ in the city's extraterritorial jurisdiction for a period of three five years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence ~~and property ownership~~ in the city, ~~and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.~~” The motion to amend carried by the following vote:

For:	4 - Davis, Meeks, Moore, and Salmi
Against:	3 - Guerrero, Mayhew, and Scott
Absent:	0
Abstain:	0

And the main motion carried by the following vote:

For:	4 - Davis, Meeks, Moore, and Salmi
Against:	3 - Guerrero, Mayhew, and Scott
Absent:	0



Abstain: 0

Mr. Salmi made another motion, seconded by Mr. Guerrero, to amend **Sec. 7.01 – Planning and zoning commission** to provide that the nine members of the commission must be city residents and to remove an additional reference to the ETJ requirement. The amendment would read as follows: “To be eligible for appointment to the commission, the nine ~~eight~~ of the commission members must have resided ~~and owned real property~~ in the city for a period of three ~~five~~ years before the date of appointment, ~~and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three~~ five years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence ~~and property ownership~~ in the city, ~~and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.~~” The motion carried by the following vote:

For:	6 - Davis, Guerrero, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott (on break during the vote)
Abstain:	0

A motion was made by Mr. Salmi, seconded by Mr. Guerrero, that item (c) of **Sec. 7.01 – Planning and zoning commission** be removed due to irrelevance, and to renumber item (d) to (c) and item (e) to (d):

~~(e) To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.~~

(~~d~~ c) The council shall establish, by ordinance, the month in which...

(~~e-d~~) In making appointments to the commission, council shall...

The motion carried by the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend item (1) of **Sec. 7.02 – Powers and duties of the commission** by adding the following statement: “The P&Z staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the P&Z Commission. The P&Z Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks. Ms. Davis made a new motion, seconded by Ms. Meeks, to amend item (9) of **Sec. 7.02 Powers and duties of the commission** by adding the following statement: “The Planning & Zoning staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the Planning & Zoning Commission. The Planning & Zoning Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council.” After more discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Ms. Meeks, to have

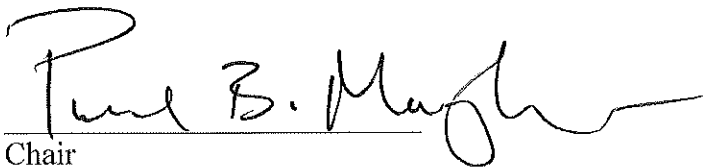
the statement read: "The Director of Planning and Development Services and the P&Z staff shall follow all city ordinances, rules and regulations and confer with the city attorney before making any recommendations to the Planning & Zoning Commission. The Planning & Zoning Commission shall follow all city ordinances, rules and regulations before presenting anything to City Council." The motion failed by the following vote:

For:	3 - Davis, Meeks, and Salmi
Against:	2 - Mayhew and Scott
Absent:	0
Abstain:	2 - Guerrero and Moore

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." None were present (Mr. Thorne left early).

Mr. Guerrero moved for adjournment at 7:27 p.m., seconded by Mr. Salmi. The motion passed with the following vote:

For:	7 - Davis, Guerrero, Mayhew, Meeks, Moore, Salmi and Scott
Against:	0
Absent:	0
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
MARCH 23, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Todd Salmi Shane Scott
Members Absent:	Daniel Guerrero
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Council Member Lisa Prewitt Lisa Marie Coppoletta

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. None were present during the Citizen Comment Period. (Council Member Lisa Prewitt arrived at 5:50 p.m. and Lisa Marie Coppoletta at 7:02 p.m.)

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Ms. Meeks, seconded by Mr. Salmi, to approve minutes of March 9, 2017. The motion passed by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Guerrero & Scott (Scott arrived at 5:37 p.m.)
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 7 – Municipal Planning and Zoning, Article 8 – Financial Procedure, and Article 9 – Borrowing for Capital Improvements." A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend item (b) of **Sec. 7.01. – Planning and zoning commission**, for clarity and consistency. The amendment would read as follows: "To be eligible for appointment to the commission, all the nine commission members must have resided in the city for a period of five years before the date of appointment. ~~To be eligible for continued service on the commission, the~~ The commission members appointed must maintain residence in the city." The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott  
 Against: 0  
 Absent: 1 - Guerrero  
 Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend **Sec. 7.02 – Powers and duties of the commission** by adding the following sentences to the end of item (1): “The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall follow all city ordinances, rules, and regulations before making any recommendations to City Council.” The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi  
 Against: 1 - Scott  
 Absent: 1 - Guerrero  
 Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend a portion of item (4) of **Sec. 7.02 – Powers and duties of the commission** to read as follows: “Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning eCommission, Texas and Federal laws, San Marcos city ordinances and regulations, and other relevant material. ~~and–~~ The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. Citizen ~~appealed~~ will not cost the appellant any money.” After some discussion, an amendment to the motion was made by Ms. Davis, seconded by Ms. Meeks, to remove the phrase “and other relevant material” from the first sentence and remove the word “Citizen” from the third sentence. The amended motion would read as follows: “Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, San Marcos city ordinances and regulations, ~~and other relevant material.~~ The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council. ~~Citizen–~~Appeals to the city council will not cost the appellant any money.” The amended motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi and Scott  
 Against: 0  
 Absent: 1 - Guerrero  
 Abstain: 0

A second amendment to the main motion was made by Ms. Davis, seconded by Mr. Scott to change the last sentence to read as follows: “No filing fees shall be assessed for appeals to the city council.” The second amendment to the main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott  
 Against: 0  
 Absent: 1 - Guerrero  
 Abstain: 0

The main motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	0

Ms. Davis made a motion, seconded by Mr. Scott, to amend the end of **Sec. 8.05 – Budget a public record** by adding the following sentence: “The budget and all supporting schedules shall be published on the city’s website.” The motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	0

A motion was made by Ms. Davis, seconded by Mr. Scott, to amend the end of item (a) of **Sec. 8.02 – Preparation and submission of budget** by adding the following sentence: “Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city’s website.” The motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Salmi, and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend the last sentence of **Sec. 8.11 – Effective date of budget; certification; copies made available** to have it read as follows: “The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations and shall be published on the city’s website.” After some discussion, the motion was withdrawn by Ms. Davis.

A motion was made by Ms. Davis, seconded by Mr. Scott, to amend the last sentence of item (b) of **Sec. 3.02 Qualifications** to read as follows: “The city council shall determine that the qualifications of its own member are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications, has substantially violated the provisions of this charter, or has been convicted of a felony, that member shall immediately forfeit office.” After some discussion, the motion was withdrawn by Ms. Davis.

Ms. Davis made a motion, seconded by Ms. Meeks, to amend **Sec. 3.08 – City council not to interfere in appointments or removals** to read as follows: “Neither the council nor any of its members shall instruct or request the city manager to any of the city manager’s subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Employment decisions by the City Manager regarding all employees at the Director level, or above, must be approved by the City Council. Except as provided for in Section 3.15 of this charter, the council and its members shall deal with the administrative and management functions of the city

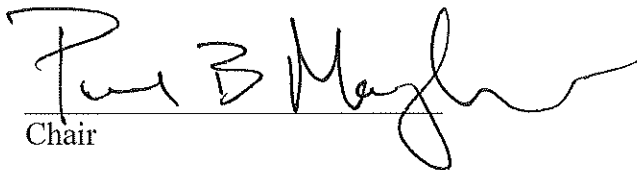


solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately. Actions taken by the city in response to directions given by council members in violation of this section are voidable either by council, or by a court.” After some discussion, the motion was withdrawn by Ms. Davis.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Ms. Coppoletta cheerfully stated she was at Concert in the Park and realized Charter Review was also being conducted, so she chose to attend Charter Review instead.

Mr. Scott moved for adjournment at 7:32 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Salmi and Scott
Against:	0
Absent:	1 - Guerrero
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
MARCH 30, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Todd Salmi
Members Absent:	Daniel Guerrero (resigned 3/29/17) Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Council Member Lisa Prewitt Christine Terrell Brett Thorne

The meeting was called to order at 5:35 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period. (Christine Terrell arrived at 5:40 p.m. and Council Member Lisa Prewitt at 7:13 p.m.)

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Mr. Moore, seconded by Ms. Meeks, to approve minutes of March 23, 2017. The motion passed by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 10 – Tax Administration, Article 11 – Franchises and Public Service Companies, and Article 12 – General Provisions." A motion was made by Ms. Davis, seconded by Ms. Meeks, to make a grammatical correction in item (b)(1) of **Sec. 11.01 – Definitions; powers of the city council** by inserting a comma after the word "maintain". The item would read as follows:

- (1) To buy, condemn, construct, lease, maintain, and operate public utility systems in the city;

The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

A second motion was made by Ms. Davis, seconded by Mr. Salmi, to make a grammatical correction in item (b)(4) of **Sec. 11.01 – Definitions; powers of the city council** by inserting a comma after the word “welfare”. The item would read as follows:

(4) To regulate public service companies in the interest of public health, welfare, and safety.

The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Ms. Davis made another motion, seconded by Mr. Salmi, to make a grammatical correction in item (b)(2) of **Sec. 11.01 – Definitions; powers of the city council** by inserting a comma after the word “manufacture”. The item would read as follows:

(2) To sell, manufacture, and distribute the services and output of city public utility systems;

The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

A motion was made by Ms. Davis, seconded by Mr. Salmi, to make a grammatical correction in the first sentence of **Sec. 11.02 – Power to grant franchise** by inserting a comma after the word “extend”. The sentence would read as follows: “The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Mr. Salmi made a motion, seconded by Ms. Meeks, to make a grammatical correction in the first sentence of **Sec. 11.04 – Ordinance granting franchise; public hearing** by inserting a comma

after the word “extending”. The sentence would read as follows: “All ordinances granting, renewing, extending, or amending a public utility franchise shall be read at three separate regular meetings of the council...”. After some discussion, the motion was withdrawn by Mr. Salmi, for the time being. Another motion was made by Mr. Salmi, seconded by Ms. Davis, to amend the last sentence of **Sec. 11.04 – Ordinance granting franchise; public hearing**. The amendment would read as follows: “Notice of public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall and on the city’s website, and the expense of such publication shall be borne by the applicant for the franchise.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend the end of item (a)(2) of **Sec. 12.02 – Personal interest and code of ethics** by adding the following sentence: “The financial disclosures shall be updated within 30 days of any significant change in the interests of an official – even if such a change is temporary. For this part “significant” means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Ms. Davis made a motion, seconded by Mr. Salmi, to amend the first sentence of item (a)(3) of **Sec. 12.02 – Personal interest and code of ethics**. The amendment would read as follows: “No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Another motion was made by Ms. Davis, seconded by Ms. Meeks, to add a sentence prior to the end of item (a)(3) of **Sec. 12.02 – Personal interest and code of ethics**. The sentence would read as follows: “Nor, for 24 months after serving as an officer of the city, may a person acquire such an interest. If the former employee or official acquires such an interest while employed by the city, or serving as a city official, the city may not take action on any application affecting such an interest for 24 months after the person leaves city employment or office, or for 24 months after the interest is acquired, whichever is longer.” After some discussion, the motion was withdrawn by Ms. Davis, for the time being.

Ms. Davis made one more motion, seconded by Ms. Meeks, to amend item (c)(2) of **Sec. 12.02 – Personal interest and code of ethics**. The amendment would read as follows: “Conduct hearings into allegations of violations of the city’s code of ethics or a state conflict of interest law, code of fair campaign practices, or violation of this charter according to the procedures set forth in the city’s ethic ordinance.” After some discussion, the motion was withdrawn by Ms. Davis for the time being.

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend **Sec. 1.03 – Statement of goals**. The amendment would read as follows: “The goals of the city government are to safeguard the health, safety and welfare of the city’s residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality and affordable housing, conserve and protect the city’s natural resources and environment.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” Ms. Terrell addressed the commission on **Sec. 12.01 – Public access to records**. She stated it lacked information on what the timeframe would be on receiving a response from the city and what the recourse would be for not receiving a timely response or any response at all. Mr. Cosentino responded that a complaint can be filed with the Texas Attorney General’s Office and that the obligation to provide information is to do so within a reasonable time. He also stated additional information can be found in Chapter 552 of the Texas Government Code. Ms. Terrell then asked if there is a policy in regard to having a travel companion on city business trips. Mr. Cosentino responded that the companion would have to pay his/her own way.

Ms. Meeks moved for adjournment at 7:41 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	1 - Scott
Abstain:	0

  
Chair



MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
APRIL 6, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Jude Prather (appointed 4/4/17) Todd Salmi Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Sam Brannon Forrest Fulkerson Christine Terrell

The meeting was called to order at 5:30 p.m. by Chair Mayhew. Chair Mayhew called a brief recess for the commissioning of new member, Jude Prather. The commission reconvened at 5:32 p.m.

Chair Mayhew introduced the Citizen Comment Period. Sam Brannon and Forrest Fulkerson were present. Mr. Brannon stated he appreciated the work of the commission. He then explained an amendment to the charter to discontinue fluoridation in (city) water was not fully addressed on the 2015 ballot. Although fluoride is no longer an additive in city water, fluoridated water is still being distributed through water acquisitions. Mr. Brannon requested the commission place the fluoride item back on the ballot to prohibit the city from receiving and distributing fluoridated water, as well. He is also willing to address the city council with this issue and/or seek legal representation, if needed. Forrest Fulkerson addressed the commission on behalf of the Ethics Review Commission. He stated the ERC is not allowed to conduct investigations on ethics complaints they receive. Mr. Fulkerson feels it would be beneficial for the ERC to be given this capability. Christine Terrell was also present but declined to speak.

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of March 30, 2017. The motion passed by the following vote:

For:	6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	1 - Davis (arrived at 5:45 p.m.)
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 12 – General Provisions." A motion was made by Mr. Salmi, seconded by Mr. Scott, to amend **Sec. 12.03 – Nepotism** by omitting the current language and inserting item (a) to read as follows: "~~The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.~~"

- (a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For the purposes of this section, the following are defined as public officials:

- (1) The mayor and members of city council
- (2) City Manager
- (3) City Attorney
- (4) Presiding judge of the municipal court

The motion carried by the following vote:

For:	6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	1 - Davis

Mr. Salmi made another motion, seconded by Ms. Davis, to amend **Sec. 12.03 – Nepotism** by inserting item (b) and have it read as follows:

- (b) No city employee shall be regularly directly supervised by a relative, a romantic partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, romantic partner or roommate.
- (1) Relatives: Includes, but are not limited to, the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.
  - (2) Romantic Partner: Persons in a consensual romantic relationship but are not married to one another.
  - (3) Roommates: Individuals who share the same living quarters.

After some discussion, Mr. Salmi amended his motion, seconded by Ms. Davis, to remove the phrase "but are not limited to" in item (b)(1). The item would read as follows:

- (1) Relatives: Includes, ~~but are not limited to,~~ the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

The amendment to the main motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against:	1 - Scott
Absent:	0
Abstain:	0

The main motion failed by the following vote:

For:	3 - Davis, Meeks, and Salmi
Against:	4 - Mayhew, Moore, Prather, and Scott
Absent:	0
Abstain:	0

Another motion was made by Mr. Salmi, seconded by Ms. Meeks, to further amend **Sec. 12.03 – Nepotism** by inserting item (c) and have it read as follows:

- (c) To avoid the appearance and risk of impropriety, public officials will not appoint business associates to public commissions and boards. Business associate is defined to include:
- (1) Public official's outside employer, outside employee, outside supervisor, or outside subordinate
  - (2) Public official's relative's outside employer, outside employee, outside supervisor, or outside subordinate (relative as defined in 12.03.b.1)
  - (3) The public official's outside client
  - (4) The public official's outside business partner, including:
    - a. Owning 10 percent or more of a business entity in which public official also owns 10 percent or more
    - b. Owning real property with a fair market value of \$2,500 or more in partnership with public official
    - c. In an outside legal contract for business goods or services valued \$2,500 or more with public officials

After some discussion, Mr. Salmi amended his motion, seconded by Ms. Meeks, to rephrase item (c) and (c)(4)c to read as follows:

(c) To avoid the appearance and risk of impropriety, a public official will not appoint his or her business associates to public commissions and boards. Business associate...

(4) c. In an outside legal contract for business goods and services valued \$2,500 or more with the public officials

The amendment to the main motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against:	0
Absent:	0
Abstain:	1 - Scott

The main motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against:	0
Absent:	0
Abstain:	1 - Scott

Chair Mayhew made a motion, seconded by Mr. Moore, to amend item (b) of **Sec. 12.03 – Nepotism** by removing the term “romantic partner” throughout item (b). The amendment would read as follows:

(b) No city employee shall be regularly directly supervised by a relative, ~~a romantic partner~~, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, ~~romantic partner~~ or roommate.

(1) Relatives: Includes the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

(2) Romantic Partner: ~~Persons in a consensual romantic relationship but are not married to one another.~~

(3) Roommates: Individuals who share the same living quarters.

The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
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Against: 0  
 Absent: 0  
 Abstain: 0

A motion was made by Mr. Salmi, seconded by Chair Mayhew, to amend the title of **Sec. 12.03 – Nepotism** to read: “**Sec. 12.03 – Nepotism & Conflict of Interest.**” The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott  
 Against: 0  
 Absent: 0  
 Abstain: 0

Chair Mayhew made a motion, seconded by Mr. Scott, to amend **Sec. 3.17 – Expulsion or removal of city officials** by striking item (a) in its entirety:

~~(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.~~

After some discussion, the motion was withdrawn by Chair Mayhew and Mr. Scott.

A motion was made by Chair Mayhew, seconded by Mr. Scott, to amend item (b) of **Sec. 8.02 – Preparation and submission of budget** by striking “April 30” and inserting “March 31” to allow timely budget preparation. The amendment would read as follows:

(b) By ~~April 30~~ March 31 of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott  
 Against: 0  
 Absent: 0  
 Abstain: 1 - Salmi

Chair Mayhew made a motion, seconded by Ms. Davis, to amend **Sec. 8.02 – Preparation and submission of budget** by inserting a new item, which would read as follows: “By February 27<sup>th</sup> of each year the city council shall hold a policy budget workshop.” The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott



Against: 0  
 Absent: 0  
 Abstain: 1 - Salmi

Another motion was made by Chair Mayhew, seconded by Ms. Davis, to further amend **Sec. 8.02 – Preparation and submission of budget** by re-lettering the items with the insertion of the newly approved item:

- (ac) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.
- (b) By March 31<sup>st</sup> of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.
- (ea) By February 27<sup>th</sup> of each year the city council shall hold a policy budget workshop.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott  
 Against: 0  
 Absent: 0  
 Abstain: 1 - Salmi

Ms. Meeks made a motion, seconded by Ms. Davis, to amend **Sec. 3.17 – Expulsion or removal of city officials** by adding the following sentence to the end of item (a): “The city council may remove council members who are in violation of, or have violated, any provisions of this charter.” After some discussion, the motion was withdrawn by Ms. Meeks.

A motion was made by Ms. Meeks, seconded by Ms. Davis, to amend item (a) of **Sec. 3.02 – Qualifications** by adding the following sentence and labeling it item (a)(7): “ The city council shall not violate any provisions of the charter.” After some discussion, the motion was withdrawn by Ms. Meeks and Ms. Davis.

Mr. Salmi made a motion, seconded by Mr. Moore, to amend **Sec. 12.02** subsection (c)(2) pertaining to the duties of the Ethics Review Commission, to read as follows:

- (c)(2) Conduct hearings into allegations of violations of the city's code of ethics, ~~or a state conflict of interest law~~, or the city charter according to the procedures set forth in the city's ethics ordinance.

The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

A motion was made by Mr. Salmi, seconded by Mr. Moore, to amend item (c)(3) of **Sec. 12.02 – Personal interest and code of ethics** to read as follows:

- (c)(3) Render advisory opinions on potential conflicts of interest or violation of the city's code of ethics, or the city charter at the request of a public official or employee ~~covered by the code of ethics~~.

The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Mr. Salmi made another motion, seconded by Mr. Moore, to amend item (c)(4) of **Sec. 12.02 Personal interest and code of ethics** to read as follows:

- (c)(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, ~~or a state conflict of interest law~~, or the city charter.

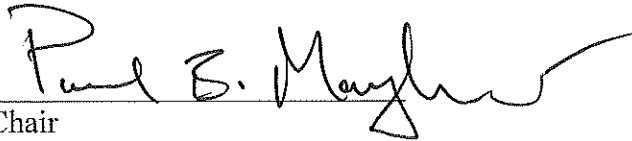
The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." Mr. Fulkerson asked the commission what penalties for violations of the charter would the Ethics Commission render if a guilty plea is ruled. Mr. Cosentino stated the remedies would be the ones currently spelled out in the ethics ordinance. Mr. Fulkerson also stated he is interested in determining whether any conflicts of interest occur when board and commission appointments are made and how they are voted on. Mr. Salmi responded that the commission hopes to incorporate language into the charter to address his concern. Ms. Terrell had no questions.

Mr. Scott moved for adjournment at 8:26 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
APRIL 20, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Todd Salmi
Members Absent:	Jude Prather Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Lisa Marie Coppoletta Steve Parker, Assistant City Manager/CFO

The meeting was called to order at 5:31 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Steve Parker, Assistant City Manager/CFO addressed the commission on residency requirements currently listed in the charter for municipal judge and the challenges it may impose for future recruitment (of this appointed position). Ms. Lisa Marie Coppoletta stated her concerns on: absences by mayor's appointees to Charter Review Commission; indebtedness to the city (by city employees); Planning & Zoning Commissioners being required to be property owners; and allowing the Ethics Review Commission more oversight on contractors.

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Ms. Meeks, seconded by Mr. Moore, to approve minutes of April 6, 2017. The motion passed by the following vote:

For:	4 - Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	2 - Prather and Scott
Abstain:	1 - Davis

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 12 – General Provisions." A motion was made by Ms. Meeks, seconded by Ms. Davis, to amend **Sec. 3.17 – Expulsion or removal of city officials** by adding the following sentence to the end of item (a): "The city council may remove council members including the mayor who are in violation of or have violated provisions of this charter." After some discussion, Ms. Meeks amended her motion, seconded by Ms. Davis to insert the word "substantially". The

amendment would read as follows: “The city council may remove council members, including the mayor, who are in violation of or who have substantially violated provisions of this charter.” After more discussion, the motion to amend was withdrawn by Ms. Meeks and Ms. Davis. In addition, the main motion was also withdrawn by Ms. Meeks and Ms. Davis. A new motion was made by Ms. Meeks, seconded by Ms. Davis, to amend **Sec. 3.17 – Expulsion or removal of city officials** by adding the following sentence to the end of item (a): “The city council may remove council members including the mayor who are in substantial violation of or have substantially violated provisions of this charter.” After some discussion, an amendment to the main motion was made by Mr. Salmi, seconded by Mr. Moore, to insert an additional phrase at the very end of item (a). The amendment would read as follows:

- (a) The city council may remove council members including the mayor who are in substantial violation of or have substantially violated provisions of this charter; provided that any such action for expulsion of a city council member shall require five affirmative votes of the city council.

The motion to amend carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	2 - Prather and Scott
Abstain:	0

And the main motion carried by the following vote:

For:	4 - Davis, Meeks, Moore, and Salmi
Against:	1 - Mayhew
Absent:	2 - Prather and Scott
Abstain:	0

Mr. Salmi made a motion, seconded by Ms. Davis, to amend **Sec. 1.03 – Statement of goals** to correct the phrase “promote high quality and affordable housing” by striking the word “and”. The phrase would read as follows: “promote high quality ~~and~~ affordable housing”. The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	2 - Prather and Scott
Abstain:	0

A motion was made by Mr. Salmi, seconded by Ms. Davis, to amend **Sec. 12.03 – Nepotism and Conflict of Interest** by adding the following sentence to the end of item (b): “The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.” The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0



Absent: 2 - Prather and Scott  
 Abstain: 0

Mr. Salmi made another motion, seconded by Ms. Davis, to further amend item (b) of **Sec. 12.03 – Nepotism and Conflict of Interest** by inserting the term and definition of “sexual partner”. The amendment would read as follows:

- (b) No city employee shall be regularly directly supervised by a relative, sexual partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, sexual partner, or roommate. The supervisor involved in the relationship is responsible for promptly reporting the relationship to the city’s Director of Human Resources.
- (1) Relatives: Includes the first, second, and third degree of consanguinity (blood or adoption); and the first and second degree of affinity (marriage). Common law marriages as recognized by the State of Texas will also be included in purposes of this section.
- (2) Roommates: Individuals who share the same living quarters.
- (3) Sexual Partner: Persons in a consensual sexual relationship but are not married to one another.

The motion carried by the following vote:

For: 5 - Davis, Mayhew, Meeks, Moore, and Salmi  
 Against: 0  
 Absent: 2 - Prather and Scott  
 Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend item (a)(3) of **Sec. 12.02 – Personal interest and code of ethics** by adding the following sentence: “For 24 months after serving as an officer of the city, no person may acquire a financial interest. If the former employee or official acquires a financial interest while employed by the city or serving as a city official, the city official may not take action on any application affecting such an interest for 24 months after the person leaves city employment or office or for 24 months after the interest is acquired, whichever is longer. The ethics commission and the city council shall enforce the forfeiture of the office, remove the city official, and bar him or her from conducting any further business.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

Mr. Salmi made a motion, seconded by Ms. Meeks, to amend item (a) of **Sec. 12.02 – Personal interest and code of ethics** by adding a subsection (4), which would read as follows:

- (a)(4) For a period of two years from the date of leaving office, a city council member shall not have any financial interest in the sale to the city of any land, materials, supplies, or service.

Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council.

The motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	2 - Prather and Scott
Abstain:	0

A motion was made by Ms. Davis, seconded by Mr. Salmi, to amend **Sec. 12.15 – Fluoridation of municipal water supply** to read as follows: “The City of San Marcos ~~shall not~~ may add or direct or require its agents to add fluoride to the San Marcos municipal water supply.” After some discussion, the motion failed by the following vote:

For:	2 - Davis and Salmi
Against:	3 - Mayhew, Meeks, and Moore
Absent:	2 - Prather and Scott
Abstain:	0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend item (a) of **Sec. 3.02 – Qualifications** by adding a subsection (7), which would read as follows: “Each member of the city council and the mayor take the oath of fair campaign practices before taking office as promulgated by Sec. 258.004 in the Texas Code of Fair Campaign Practices.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

A new motion was made by Ms. Davis, seconded by Ms. Meeks, to amend **Sec. 5.03 – Filing for office** by adding the following sentence and inserting it after the first sentence: “All candidates shall take the oath of fair campaign practices provided in Section 258.004 of the Texas Election Code.” The motion carried by the following vote:

For:	3 - Davis, Meeks, and Salmi
Against:	2 - Mayhew and Moore
Absent:	2 - Prather and Scott
Abstain:	0

Ms. Davis made a motion, seconded by Ms. Meeks, to amend **Sec. 4.02 – City clerk** by adding the following sentence at the end of this section: “The city clerk shall assure that state law on record retention be followed.” The motion failed by the following vote:

For:	2 - Davis and Meeks
Against:	2 - Mayhew and Moore
Absent:	3 - Prather, Salmi, and Scott (Salmi left at 8:00 p.m.)
Abstain:	0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend **Sec. 12.01 – Public access to records** by adding the following sentence at the end of this section: “All city council

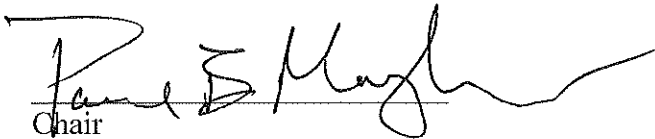
members, including the mayor, city manager, city attorney, city clerk, and presiding municipal judge have their salaries published on the city website.” After some discussion, the motion was withdrawn by Ms. Davis and Ms. Meeks.

Ms. Davis made another motion, seconded by Ms. Meeks, to amend **Sec. 12.02** pertaining to the duties of the Ethics Review Commission, by adding a new subsection and labeling it (d) to allow the ethics commission investigative power and subpoena power. After some discussion, the motion was withdrawn by Ms. Davis.

Chair Mayhew introduced the next agenda item, “Questions and Answers from Press and Public.” None were present.

Ms. Meeks moved for adjournment at 9:06 p.m., seconded by Mr. Moore. The motion passed with the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Salmi
Against:	0
Absent:	3 - Prather, Salmi, and Scott (Salmi left at 8:00 p.m.)
Abstain:	0

  
Chair

MINUTES OF THE REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION OF THE  
CITY OF SAN MARCOS, TEXAS  
May 3, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Jude Prather Todd Salmi Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Brett Thorne

The meeting was called to order at 5:32 p.m. by Chair Mayhew.

Chair Mayhew introduced the Citizen Comment Period. Brett Thorne was present but declined to speak during the Citizen Comment Period.

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of April 20, 2017. The motion passed by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 12 – General Provisions." A motion was made by Ms. Meeks, seconded by Mr. Prather, to amend **Sec. 1.03 – Statement of goals** to read as follows: "The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries." After some discussion, an amendment to the motion was made by Mr. Prather, seconded

by Ms. Davis, to include the Blanco River. After brief discussion, the motion to amend was withdrawn by Mr. Prather. After more discussion, the main motion carried by the following vote:

For:	5 - Davis, Mayhew, Meeks, Moore, and Prather
Against:	0
Absent:	0
Abstain:	2 - Salmi and Scott

Ms. Meeks made a motion, seconded by Ms. Davis, to add a sentence to item (d) of **Sec. 7.01 – Planning & zoning commission**. The amendment would read as follows:

- (d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. A person may not be appointed to the Commission if that person has a substantial interest in, or receives income from, the development or sale of real property. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

After some discussion, the motion was withdrawn by Ms. Meeks. A new motion was made by Ms. Meeks, seconded by Mr. Scott, to amend item (d) of **Sec. 7.01 – Planning and zoning commission** to read as follows:

- (d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. No more than two professional realtors may be appointed to the commission. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

The motion carried by the following vote:

For:	4 - Davis, Meeks, Moore, and Scott
Against:	3 - Mayhew, Prather, and Salmi
Absent:	0
Abstain:	0

Ms. Meeks made a motion, seconded by Ms. Davis, to amend **Sec. 3.17 – Expulsion or removal of city officials** by adding a new item and labeling it item (c), which would read as follow:

- (c) No member of city council, including the mayor, shall make any intimation or promise of current or future financial gain, promotion, or other benefit to any employee, public official, or their family members. Nor shall any member of city council, including the mayor, intimidate, or intimate current or future financial loss, job loss, or demotion to any employee, public official, or their family members. Any such action may be grounds for removal.

After some discussion, the motion failed by the following vote:



For: 2 - Davis and Meeks  
Against: 5 - Mayhew, Moore, Prather, Salmi, and Scott  
Absent: 0  
Abstain: 0

A motion was made by Ms. Meeks, seconded by Ms. Davis, to create a new section under **ARTICLE VII – MUNICIPAL PLANNING AND ZONING**, which would read as follows:

**Sec. 7.05. – Disqualification from voting.**

- (1) A member shall disqualify himself or herself from voting whenever he or she finds that he or she has a personal or monetary interest in the property under review, or that he or she will be directly affected by the decision of the Commission.
- (2) A member shall disqualify himself or herself from voting whenever any applicant, or the applicant’s agent, has sought to influence the vote of the member on an application, other than in the public hearing.

After discussion, the motion was withdrawn by Ms. Meeks.

Ms. Meeks made another motion, seconded by Ms. Davis, to amend subsection (a) of **Sec. 12.02 – Personal interest and code of ethics** by creating item (5) and have it read as follows:

- (a)(5) No city official may receive loans, contributions, promises of financial support, or any other form of financial gain from another city official.

After brief discussion, an amendment to the motion was made by Ms. Meeks, seconded by Ms. Davis, to replace the first listing of “city official” with “city council member”. The amendment would read as follows:

- (a)(5) No city ~~official~~ council member may receive loans, contributions, promises of financial support, or any other form of financial gain from another city official.

After discussion, the amended motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi  
Against: 0  
Absent: 0  
Abstain: 1 - Scott

However, the main motion failed by the following vote:

For: 2 - Davis and Meeks  
Against: 5 - Mayhew, Moore, Prather, Salmi, and Scott  
Absent: 0  
Abstain: 0

A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend **Sec. 5.03 – Filing for office** by adding the following sentences to the end of this section: “All campaign contributions and reports filed by candidates shall be printed electronically, not hand-written, so that they are legible. The City Clerk shall enforce this and retain the records.” After brief discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Mr. Salmi, seconded by Chair Mayhew to amend **Sec. 5.03 – Filing for office** by adding the following sentence to the end of this section: “All campaign contributions and reports filed by candidates shall be legible.” The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Ms. Davis made a motion, seconded by Mr. Prather, to create a new section under **ARTICLE IV. – ADMINISTRATIVE SERVICES**, which would read as follows:

**Sec. 4.07 – Publication of appointed public official’s salaries.**

The salary of each public official appointed by the city council, which include the city attorney, city manager, city clerk, presiding municipal judge, and city auditor shall be published on the city website.

After some discussion, a motion to amend was made by Ms. Davis, seconded by Mr. Scott, to include all employees. After more discussion, the motion to amend was withdrawn by Ms. Davis and Mr. Scott. The main motion was also withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Mr. Prather, to have the new section read as follows:

**Sec. 4.07 – Publication of appointed public official’s salaries.**

The salary of each position shall be published on the city website.

After discussion, the motion was withdrawn by Ms. Davis. Ms. Davis made a new motion, seconded by Mr. Scott, to have the new section read as follows:

**Sec. 4.07 – Publication of ~~appointed public official’s~~ salaries.**

The salary of each position shall be published on the city website.

After brief discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Mr. Scott, to have the new section read as follows:

**Sec. 4.07 – Publication of salaries.**

The salary of each city position shall be published on the city website.

The motion carried by the following vote:

For: 4 - Davis, Meeks, Prather, and Scott  
 Against: 3 - Mayhew, Moore, and Salmi  
 Absent: 0  
 Abstain: 0

Ms. Davis made a motion, seconded by Ms. Meeks, to create a subsection labeled item (1) to **Sec. 5.03 – Filing for office** and have it read as follows:

- (1) City employees, city officials and candidates for office (or businesses in which they have a substantial interest) shall not contribute, either monetarily or in kind, to the campaigns of other candidates for city office.

After some discussion, the motion was withdrawn by Ms. Davis. Another motion was made by Ms. Davis, seconded by Ms. Meeks, to have a new subsection (1) of **Sec. 5.03 – Filing for office** read as follows:

- (1) City employees, city officials and candidates for office (or businesses in which they have a substantial interest) shall not contribute, either monetarily or in kind, to the campaigns of ~~other~~ candidates for city office.

After further discussion, the motion was withdrawn by Ms. Davis. A new motion was made by Ms. Davis, seconded by Ms. Meeks, to create a subsection labeled item (2) to **Sec. 5.03 – Filing for office** and have it read as follows:

- (2) Candidates for city office shall not accept monetary or in kind contributions from any person or entity in excess of \$250.

After additional discussion, the motion was withdrawn by Ms. Davis. Another new motion was made by Ms. Davis, seconded by Ms. Meeks, to create a subsection labeled item (1) to **Sec. 5.03 – Filing for office** and have it read as follows:

- (1) Candidates for city office shall not accept monetary ~~or in kind~~ contributions from any person or entity in excess of ~~\$250~~ \$1,000.

After brief discussion, the motion tied by the following vote:

For: 3 - Davis, Meeks, and Scott  
 Against: 3 - Mayhew, Moore, and Prather  
 Absent: 0  
 Abstain: 1 - Salmi

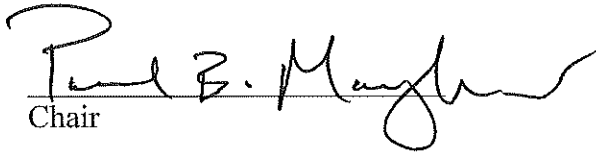
A motion was made by Ms. Davis, seconded by Ms. Meeks, to amend subsection (a)(2) of **Sec. 12.02 – Personal interest and code of ethics** by adding a sentence to the end of this section, which would read as follows: “Each financial disclosure of outside earnings shall be made to the nearest \$100,000 increment. City officials who do not make such disclosures shall have 30 days to conform to this Section of the Charter or shall be subject to review by the Ethics Commission or subject to removal by City Council.” After discussion, the motion was withdrawn by Ms. Davis.

Chair Mayhew introduced the next agenda item, "Consider approval of the 2017 Charter Review Commission's recommendations and report to City Council." After some discussion, Chair Mayhew, Mr. Moore, and Mr. Salmi were appointed to a subcommittee to prepare the final report, which will be reviewed and approved at the commission's next and final meeting (date to be determined).

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." None were present (Mr. Thorne left early).

Mr. Scott moved for adjournment at 7:33 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

  
Chair

### **Charter Review Requests from City Council and Staff**

- Should the Deputy Mayor Pro Tem be added to authorize the calling of a meeting to order the election in the event that the Mayor and Mayor Pro Tem are unable? Sec. 3.06 – Vacancies.
- Should web posting on the city's website be added as a requirement for meetings of the city council? Sec. 3.09 – Meetings of the city council.
- City Secretary should be corrected to city clerk. Sec. 3.09 – Meetings of the city council.
- Should the city attorney review the legality of all ordinances provided for council consideration? Sec. 3.11 – Procedures for passage of ordinances.
- Should electronic signatures be allowed to authenticate all ordinances and resolutions? Sec. 4.02 City Clerk.
- Should the word "printed" be changed to accommodate the use of electronic voting systems? Sec. 5.04 – The official ballot.
- The ETJ member should be deleted. Effective March 1, 2015 the ETJ member of the commission shall be deleted and qualified city resident member shall be appointed. Sec. 7.01 – Planning and zoning commission.
- Should the nepotism rules be modified? Sec. 12.03 – Nepotism.
- Should the qualifications for council be altered to reference indebtedness to the city? Sec. 3.02 – Qualifications.
- Should Council terms to be extended to 4 years? Sec. 3.01 – Number, selection and term.
- Should the Mayor's term be extended from 2 years to 3 years? Sec. 3.01 – Number, selection and term.
- Should there be term limits? Sec. 3.01 – Number, selection and term.
- Review the possibility of going to single member districts. Sec. 3.01 – Number, selection and term.
- Review the possibility of going from November elections to May elections. Sec. 5.01 – Elections.
- Review the possibility of going to odd year elections if moving to May elections is not an option. Sec. 5.01 – Elections.

### **Additional Council Review Requests**

- Section 3.01 – Number, selection and term; Section 3.02 – Qualifications; Section 3.03 – reserved; Section 3.05 – Mayor, Mayor Pro Tempore and Deputy Mayor Pro Tempore; Section 3.07 – Powers and limitations of city council; Section 3.08 – City council not to interfere in appointments or removals; Section 3.11 – Procedure for passage of ordinances.
- Section 4.01 – City manager
- Section 5.01 – Elections; Section 5.02 – Regulation of elections; Section 5.06 – Laws governing city elections; Section 5.07 – Conducting and canvassing elections.

### **Staff**

- Should anyone who has a criminal record of a certain seriousness (to be defined by the commission), be deemed ineligible to serve on city council? Sec. 3.02 – Qualifications.

**CITY CHARTER**  
**City of San Marcos, Texas**  
*(with changes through November 7, 2017 City Election)*

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## ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

### **Sec. 1.01. - Establishment and purposes of Charter.**

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities stated in this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(1), 8-15-06/11-7-06; Ord. No. 2017-45, § 2 (Prop. A), 8-15-17/11-7-17)

### **Sec. 1.02. - Form of government.**

The city government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 7, 8-20-13/11-5-13; Ord. No. 2017-45, § 2 (Prop. A), 8-15-17/11-7-17)

**State Law reference**— Home rule form of government, V.T.C.A., Local Government Code, § 26.001 et seq.

### **Sec. 1.03. - Statement of goals.**

The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.

(Ord. No. 1998-7, Prop. 1, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(2), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 8, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. B), 8-15-17/11-7-17)

## ARTICLE II. - POWERS OF THE CITY<sup>[2]</sup>

Footnotes:

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**State Law reference**— Home rule powers generally, V.T.C.A., Local Government Code, § 51.071 et seq.

### **Sec. 2.01. - General.**

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have and may exercise all the powers granted to home rule cities by the constitution or laws of Texas, as they now exist or are hereafter amended.

(Ord. No. 1992-9, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

### **Sec. 2.02. - Eminent domain.**

- (a) The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state, subject to the right of the owner of the property taken. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.
- (b) However, the city shall not use the power of eminent domain to acquire property for transfer, or for lease in substantial part, to a private third party for the purpose of economic development. The term "economic development" means any activity to increase tax revenue, tax base, employment, or the general economic health of the City, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, public utility facility, or municipal building; (2) the transfer of land to a private entity that is a common carrier, such as a utility provider; or (3) the transfer of property to a private entity to remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or the acquisition or transfer of abandoned property.

(Ord. No. 1998-7, Prop. 2, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(2), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(3), 8-19-08/11-4-08)

### **Sec. 2.03. - Extension or detachment of boundaries.**

The city council shall have power by ordinance to fix the boundary limits of the City of San Marcos and to provide for the alteration and extension of boundary limits, the detachment of territory and the annexation of additional territory, in accordance with applicable state annexation laws.

(Ord. No. 1984-11, Prop. 1, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 1, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 1, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

### **Sec. 2.04. - Limited purpose annexation.**

In addition to the power to annex additional territory for all purposes, the city shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the city for the limited purposes of "planning and zoning" and "sanitation and health protection," and to annex for one or both of such limited purposes additional territory lying adjacent to the city; provided, however, that no such territory which lies farther than one mile from the corporate boundary limits enclosing the territory which is a part of the city for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which is a part of the city for all purposes, such boundary limits of the limited territory shall be known as "limited purpose boundary limits". Every ordinance by which territory is to be annexed to the city for one or both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city and in the form in which it is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of the limited purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city shall have each and every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory is annexed, and the power of the city to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of "planning and zoning," the city shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose of "sanitation and health protection," the city shall have the power to adopt all reasonable regulations pertaining to sanitation and

public health and to require compliance with such regulations. Every inhabitant of territory annexed for one or both of the limited purposes, who is otherwise qualified, shall be entitled to vote in city elections on every issue where the question is the election or recall of the mayor or a city council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city in connection with any city ordinance, regulation or action which is, or is alleged to be, applicable to him or his property because of such limited purpose annexation, but will not be eligible to run for any office in the City of San Marcos. The city shall have no power to levy any tax for municipal purposes on either the property or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city in the accomplishment of the limited purpose or purposes for which the territory is annexed.

(Ord. No. 1984-11, Prop. 2, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

**State Law reference**— Annexations for limited purposes, V.T.C.A., Local Government Code, § 43.121 et seq.

## ARTICLE III. - THE CITY COUNCIL

### **Sec. 3.01. - Number, selection and term.**

- (a) The legislative and governing body of the city shall consist of seven council members and shall be known as the "City Council of San Marcos".
- (b) The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.
- (c) Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. The council member elected to the place of mayor shall hold office for a period of two years.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 3, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 1, 8-9-04)

### **Sec. 3.02. - Qualifications.**

- (a) Each member of the city council, in addition to having other qualifications prescribed by law:
  - (1) Shall be a qualified voter of the city;
  - (2) Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:
    - (A) The person must use the residence address for voter registration, current driver's license or Texas identification card;
    - (B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;
    - (C) The person must not claim a homestead exemption on any property other than the residence;
  - (3) Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the



council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;

- (4) Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.
  - (5) Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city.
  - (6) Shall remain current on all financial obligations to the city relating to the duties of the council member.
- (b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Props. 2—4, 2-8-88/5-7-88; Ord. No. 1996-6, Prop. 1, 2-12-96/5-4-96; Ord. No. 1998-7, Prop. 3, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 2, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 2, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 1, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 1, 5-7-02/5-4-02; Ord. No. 2004-10, Prop. 1, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(4), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(4), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 10, 11, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. C), 8-15-17/11-7-17)

### **Sec. 3.03. - Reserved.**

**Editor's note**— Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.

### **Sec. 3.04. - Compensation and reimbursement.**

City Council Compensation shall be set in a public forum by ordinance of the city council; and they shall be entitled to all necessary expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and of each council member. The mayor and the members of the city council shall be reimbursed for the amounts so provided for in the annual city budget for their actual official city business expenses. The city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement.

(Ord. No. 1984-11, Prop. 4, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 5, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 2, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 2, 5-7-02/5-4-02; Ord. No. 2008-29, § 2(5), 8-19-08/11-4-08)

### **Sec. 3.05. - Mayor, mayor pro tem and deputy mayor pro tem.**

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tem, and shall in addition designate a deputy mayor pro tem, who each shall serve in such capacity for a period of one year; provided, however, that in the event a runoff election is required the city council shall not designate a mayor pro tem or deputy mayor pro tem until the runoff election is completed and the duly elected candidates have been officially seated on the council. The mayor pro tem shall act as mayor during the absence or disability of the

mayor, and shall have power to perform every act the mayor could perform if present. The deputy mayor pro tem shall act as mayor during the absence or disability of the mayor and mayor pro tem, and shall have power to perform every act the mayor could perform if present.

(Res. No. 1974-5R, Prop. 2, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 5, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 3, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 4, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 4, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(6), 8-15-06/11-7-06; Ord. No. 2017-45, § 2(Prop. D), 8-15-17/11-7-17)

### **Sec. 3.06. - Vacancies.**

(a) A special election to fill a vacancy shall be called in accordance with state law. In the event the mayor is unable to call a meeting to order the election for any reason, the mayor pro tem or deputy mayor pro tem are authorized and directed to call a meeting to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of mayor and all members of the city council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

- (1) The city manager.
- (2) The city clerk.
- (3) The city attorney.
- (4) The presiding judge of the municipal court.

(b) No such election shall be held sooner than 30 days from the date it is called.

(Ord. No. 1984-11, Prop. 6, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 2, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 6, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 1, 2-12-90/5-5-90; Ord. No. 1996-6, Prop. 4, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2013-44, Prop. 12, 8-20-13/11-5-13)

### **Sec. 3.07. - Powers and limitations of the city council.**

(a) All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council.

(b) The council shall have no power to, and shall not:

- (1) Sell, convey, lease, mortgage or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage or other alienation is to be made; provided, that the city council may, after a public hearing, authorize a lease of park property to another governmental entity or to a non-profit corporation or association for a term of up to three years if the council determines that the lease will further the use of the property for park purposes.
- (2) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.
- (3) Accept or admit liability in, or pay, any claim for damages asserted against the city, without first obtaining a written opinion from the city attorney regarding the city's liability therein.

(c) The council will have the authority to approve the conveyance of land, right-of-way and easements owned by the city. Any such approval will be in the form of an ordinance, and no such ordinance may be adopted as an emergency measure.

(Ord. No. 1994-16, Prop. 2, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 5, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 5, 5-9-00/5-6-00)

**State Law reference**— Municipal home rule powers, Texas Const., art. 16, § 5; V.T.C.A., Local Government Code, §§ 26.001 et seq., 51.001, 51.071 et seq.

### **Sec. 3.08. - City council not to interfere in appointments or removals.**

Neither the council nor any of its members shall instruct or request the city manager or any of the city manager's subordinates to appoint to, or remove from, office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 3.15 of this Charter, the council and its members shall deal with the administrative and management functions of the city solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 7, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

### **Sec. 3.09. - Meetings of the city council.**

The city council shall hold twenty-two regular meetings at a minimum each year at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city clerk upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

(Res. No. 1977-7R, Prop. 2, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 7, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 8, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 6, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 6, 5-9-00/5-6-00; Ord. No. 2017-45, § 2(Props. E, F), 8-15-17/11-7-17)

**State Law reference**— Open meetings act, V.T.C.A., Government Code, § 551.001 et seq.

### **Sec. 3.10. - Rules of procedure.**

The city council shall determine by ordinance its own rules of procedure and order of business. Four or more council members shall constitute a quorum, but no action of the council shall be of any force or effect unless it is adopted by the favorable votes of four or more of the council members. Minutes of all meetings of the council, including the vote of "ayes" and "noes" upon the passage of all ordinances and resolutions, shall be taken and recorded, and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

### **Sec. 3.11. - Procedure for passage of ordinances.**

- (a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".

- (b) The city attorney shall approve the legality of all ordinances prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.
  - (c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.
  - (d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.
  - (e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:
    - (1) An ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or
    - (2) The adoption of an ordinance under a different procedure is expressly authorized by state law.
  - (f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.
  - (g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.
  - (h) All ordinances shall be effective upon final reading or publication if publication is required by state law.
- (Ord. No. 1986-4, Prop. 3, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 3, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 4, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(7), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(6), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 13, 14, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. G), 8-15-17/11-7-17)

### **Sec. 3.12. - Publication of ordinances.**

Except as otherwise provided by law or by this Charter, the city clerk shall give notice of the enactment of every penal ordinance by causing its caption and penalty, to be published at least one time within ten days following the date of final passage thereof in some newspaper of general circulation within the city. The city clerk shall give notice of the enactment of other ordinances by publishing in the newspaper only if publication is required by state law, this Charter, or city ordinance. The city clerk shall give notice of the enactment of all ordinances on the city's website.

The city clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(7), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 15, 8-20-13/11-5-13; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

**State Law reference**— Publication of ordinances, V.T.C.A., Local Government Code, § 52.013.

### **Sec. 3.13. - Code of Ordinances.**

The council shall cause all general ordinances of the city to be compiled and printed in Code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section general ordinances shall be deemed to be those ordinances of a permanent or

continuing nature which affect the residents of the city at large. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available through electronic media and for purchase by the public at a reasonable price fixed by the council.

(Ord. No. 1988-15, Prop. 9, 2-8-88/5-7-88; Ord. No. 1998-7, Prop. 5, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

**State Law reference**— Adoption of codification, V.T.C.A., Local Government Code, § 53.001.

#### **Sec. 3.14. - Official bonds for city employees.**

The council shall require bonds or insurance of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds or insurance shall be determined by the council and the cost thereof shall be borne by the city.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 16, 8-20-13/11-5-13)

#### **Sec. 3.15. - Investigation by the city council.**

The city council shall have power to inquire into the official conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. Any person participating in such an investigation shall have all rights afforded by the Constitution and laws of the United States and the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(8), 8-19-08/11-4-08)

#### **Sec. 3.16. - Audit and examination of city books and accounts.**

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**State Law reference**— Annual audit required, V.T.C.A., Local Government Code, § 103.001 et seq.

#### **Sec. 3.17. - Expulsion or removal of city officials.**

- (a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.
- (b) The city council shall have the authority to remove any city official appointed by the city council, including members of city boards and commissions established under state law, by this Charter, or by ordinance, and the city manager, city clerk, city attorney and municipal court judge. Any such removal of a city official by the city council shall require a majority vote of the membership of the city council and shall be preceded

by adequate notice to the official of the time and location of the meeting, the nature of the charge against the official, and an opportunity for a hearing. At any such hearing, evidence both for and against the city official may be offered for the council's consideration. The council may, by ordinance, provide for further or more detailed procedures pertaining to the removal of city official, not inconsistent with this provision.

(Ord. No. 2000-12, Prop. 7, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 7, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 2, 2-23-04/5-15-04; Ord. No. 2013-44, Prop. 17, 8-20-13/11-5-13)

## ARTICLE IV. - ADMINISTRATIVE SERVICES<sup>[3]</sup>

Footnotes:

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**State Law reference**— Creation of municipal officers, V.T.C.A., Local Government Code, § 26.041.

### **Sec. 4.01. - City manager.**

- (a) *Appointment and qualifications:* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.
- (b) *Term and salary:* The city manager shall not be appointed for a definite term, but may be removed by a vote of five members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.
- (c) *Duties of the city manager:*
  - (1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.
  - (2) To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.
  - (3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.
  - (4) To keep the city council fully advised of the financial condition and needs of the city.
  - (5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.
  - (6) To perform other duties as provided by this Charter and as prescribed by the city council.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 6, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 4, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 3, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12,

Prop. 3, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 3, 5-7-02/5-4-02; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(8), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(9), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Prop. H), 8-15-17/11-7-17)

#### **Sec. 4.02. - City clerk.**

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 1, 6-22-81/8-8-81; Ord. No. 1992-9, Prop. 5, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 4, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 8, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 8, 5-9-00/5-6-00; Ord. No. 2008-29, § 2(10), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Prop. I), 8-15-17/11-7-17)

#### **Sec. 4.03. - Municipal court.**

- (a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.
- (b) The city council shall appoint a presiding judge for the municipal court and any associate judges it deems advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants with the approval of the city council.

(Res. No. 1974-5R, Prop. 3, 2-18-74/4-2-74; Res. No. 1977-7R, Props. 1, 4, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 2, 6-22-81/8-8-81; Ord. No. 1986-4, Props. 7, 9, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 10, 2-8-88/5-7-88; Ord. No. 1994-16, Prop. 5, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(11), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 18, 8-20-13/11-5-13)

**State Law reference—** Municipal court, V.T.C.A., Government Code, § 29.001 et seq.

#### **Sec. 4.04. - City attorney.**

The city council shall appoint a city attorney, who shall be a competent and duly qualified and licensed attorney, authorized to practice law in the State of Texas. The city attorney shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The city attorney's compensation shall be fixed by the city council. The city attorney may appoint an assistant or assistants with the approval of the city council. The city attorney, or other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor and counsel for the city and all city officers and administrative units; provided, that the city council may retain special counsel at any time it deems same appropriate and necessary. The city attorney shall prepare or review all ordinances and shall prosecute all criminal cases in the municipal court in person or through an assistant.

(Ord. No. 1984-11, Prop. 9, 1-30-84/4-7-84; Ord. No. 1994-16, Prop. 6, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 19, 8-20-13/11-5-13)

#### **Sec. 4.05. - City auditor.**

The city council may appoint a city internal auditor who shall serve at the pleasure of the city council. The city council shall establish the duties and operating procedures of the city internal auditor by ordinance. The



city council may enter into a contract for the duties of an internal auditor to be carried out by an outside firm if the council chooses to do so.

(Ord. No. 2010-44, §§ 2, 3, 8-17-10/11-2-10)

**Sec. 4.06. - Other administrative units.**

The city council may abolish or consolidate such administrative units as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such units as it may deem advisable; may create new administrative units, and may discontinue any administrative unit at its discretion, except those specifically established by this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 4.07. - Publication of salaries.**

The salary range of each city position shall be published on the city's website.

(Ord. No. 2017-45, § 2 (Prop. J), 8-15-17/11-7-17)

## ARTICLE V. - NOMINATIONS AND ELECTIONS<sup>[4]</sup>

Footnotes:

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**State Law reference**— Municipal elections, V.T.C.A., Election Code, § 1.001 et seq.

**Sec. 5.01. - Elections.**

The regular city election shall be held annually on the first Tuesday after the first Monday in November as provided by state law.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 11, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(12), 8-19-08/11-4-08)

**State Law reference**— Uniform election dates, V.T.C.A., Election Code, § 41.001.

**Sec. 5.02. - Regulation of elections.**

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of elections. The city council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 2)

**Sec. 5.03. - Filing for office.**

Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall sign the code of fair campaign practices provided in V.T.C.A. Election Code § 258.004. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate's sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter. All campaign contribution reports filed by candidates shall be legible.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 6, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 3, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(13), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 20, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. K), 8-15-17/11-7-17)

#### **Sec. 5.04. - The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be included on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or the candidate's named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2 (Prop. L), 8-15-17/11-7-17)

#### **Sec. 5.05. - Election by majority.**

At any regular or special municipal election the candidates in each place on the ballot who shall have received the majority of votes cast in such election for such place shall be declared elected. In the event no candidate for a designated place on the city council receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the two candidates who received the greatest number of votes for such place. The runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the regular or special election is completed.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 11, 7-6-81/8-8-81; Ord. No. 1986-4, Prop. 11, 1-27-86/4-5-86; Ord. No. 1994-16, § 1.2, Prop. 7, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 12, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06)

#### **Sec. 5.06. - Laws governing city elections.**

All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this Charter, and ordinances of the city, in the order named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 5.07. - Conducting and canvassing elections.**

The returns of every municipal election shall be delivered by the election judges to the central counting station immediately after the closing of the polls. Returns of the elections, general and special, shall be presented to the city council on any date permitted by the Texas Election Code at which time the council shall canvass and declare the results of such election.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 20, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 9, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 9, 5-9-00/5-6-00)

#### **Sec. 5.08. - Oath of office.**

Every officer of the city shall take and subscribe to an oath or affirmation similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office. The oath or affirmation shall be in a form provided by the city clerk, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the city clerk.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 12, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 2, 2-12-90/5-5-90; Ord. No. 2000-12, 2-14-00/5-6-00)

**State Law reference—** Oath, Texas Const., art. 16, § 1.

### **ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL**

#### **Sec. 6.01. - Power of initiative.**

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance or repeal any ordinance not in conflict with this Charter, the State Constitution, or the state laws. Any initiated ordinance may be submitted to the council by a petition signed by at least ten per cent of the qualified voters of the city.

(Res. No. 1979-14R, Prop. 11, 2-26-79/4-7-79; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

#### **Sec. 6.02. - Power of referendum.**

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified voters of the city may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.

(Res. No. 1979-14R, Prop. 12, 2-26-79/4-7-79; Ord. No. 1986-4, Prop. 13, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00; Ord. No. 2017-45, § 2(Prop. F), 8-15-17/11-7-17)

#### **Sec. 6.03. - Forms of petitions.**

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the council, the full text of the ordinance sought to be referred shall be included in such papers. Before signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath or affirmation before the city clerk or any other officer competent to administer oaths or affirmations, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person's presence.

(Res. No. 1974-5R, Prop. 4, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 8, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, §§ 1, 3; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

#### **Sec. 6.04. - Council consideration and submission to voters.**

- (a) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council, within 30 days after the date of the certification, shall either:
  - (1) Pass the initiated ordinance without amendment; or
  - (2) Call an election on the adoption of the initiated ordinance without amendments, to be held on the next uniform date authorized by state law for municipal elections which is at least 62 days after the date on which the council acts.

At the election, the council may submit the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the council; the voters being given the opportunity to accept or reject both. If both are accepted, then the ordinance receiving the greatest number of affirmative votes is adopted, and the other ordinance is deemed rejected. If both are accepted and receive the same number of affirmative votes, both are deemed rejected.

- (b) When the council receives an authorized referendum petition, certified by the city clerk to be sufficient the council shall reconsider the referendum ordinance, and within 30 days, shall either repeal the ordinance or call an election on the repeal of the ordinance, to be held on the next uniform date

authorized by state law for municipal elections which is at least 45 days from the date on which the council acts.

- (c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

(Ord. No. 1984-11, Prop. 10, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 4, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

**Editor's note**— Ord. No. 2006-36, § 2(11), adopted Aug. 15, 2006, passed at referendum on Nov. 7, 2006, deleted § 6.04, in its entirety and renumbered §§ 6.05—6.11 as §§ 6.05—6.10 to read as set out herein. Former § 6.05 pertained to filling, examination and certification of petitions and derived from Ord. No. 1986-4, Prop. 14, adopted Jan. 27, 1986, passed at referendum on Apr. 5, 1986; Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; and an ordinance adopted Aug. 12, 2002, § 1.

#### **Sec. 6.05. - Results of elections.**

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. Except as otherwise provided in Section 6.05, if a majority of the legal votes cast is in favor of an initiated ordinance, it shall be effective as an ordinance of the city when the result of the election is declared. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of three-fourths of the council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

(Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.06. - Power of recall.**

- (a) The people of the city reserve the power to recall any elected officer of the City of San Marcos and may exercise such power by filing with the city clerk a petition demanding the removal of the officer, signed by at least ten per cent of the qualified voters of the city.
- (b) The recall petition shall be on a form approved by the city clerk. Any recall petition form supplied by the city clerk shall be valid for 45 days from the date of its issuance and the expiration date and time shall be noted on the petition form by the city clerk at the time of its issuance. All such forms must be returned to the city clerk before their respective expiration dates in order to be eligible to be verified and certified by the city clerk.

(Ord. No. 1986-4, Props. 15, 16, 1-27-86/4-5-86; Ord. No. 1996-6, Prop. 7, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 5, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.07. - Recall election.**

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient, the council shall order and hold an election to determine whether such officer shall be recalled. The election shall be held on the date next authorized by state law for municipal elections which is at least 62 days after certification of the petition calling for the recall election.

(Res. No. 1974-5R, Prop. 5, 2-18-74/4-2-74; Ord. No. 1984-11, Prop. 11, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 6, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

#### **Sec. 6.08. - Results of recall election.**

If a majority of the votes cast at a recall election shall be against removal of the council member named on the ballot, that council member shall continue in office. If the majority of the votes cast at such election be for the removal of the council member named on the ballot, the council shall immediately declare that member's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council member thus removed shall not be a candidate in an election called to fill the vacancy thereby created.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

**Sec. 6.09. - Limitation on recall.**

No recall petition shall be filed against a council member within six months after taking office, and no council member shall be subjected to more than one recall election during a term of office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

**Sec. 6.10. - Examinations and certification of petitions.**

- (a) Within 45 days after an initiative, referendum or recall petition is filed, the city clerk shall determine whether the petition is properly signed by the requisite number of qualified voters. The city clerk shall use the standards and procedures described in state law to make this determination.
- (b) In examining a petition, the clerk shall clearly note signatures found to be invalid.
- (c) After completing examination of a petition, the clerk shall certify the result to the council at its next regular meeting.
- (d) If the certificate of the city clerk shows an initiative or referendum petition to be insufficient, the clerk shall comply with the provisions of state law regarding the filing of a supplementary petition, if applicable. Within 45 days after a supplementary petition is filed, the clerk shall examine the petition and certify as to its sufficiency. If the original petition and supplementary petition are found to be insufficient, no further proceedings shall be had with regard to them.

(Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

**Sec. 6.11. - Non-binding ballot propositions.**

The council is authorized to call elections on ballot propositions that are non-binding in nature when the council wishes to obtain an informal indication of the position of the city's voters on an issue. The following shall apply to elections on non-binding ballot propositions:

- (1) The ballots must clearly label each proposition as non-binding in the heading of the proposition.
- (2) The ballot cannot contain an indication of the effect that approval or disapproval of a proposition will have on the position of the city council on any issue.
- (3) The ordinance calling the election and the ordinance declaring the result of the election must both contain a clear statement that the non-binding propositions are not binding on the city council.
- (4) The city council shall not place a non-binding proposition on a ballot as a substitute or alternative for a binding proposition the council is obligated to place on the same ballot.
- (5) A non-binding proposition may be placed on the ballot by the council only when the ballot will contain other matters. The city council shall not call an election at any time solely for the purpose of placing one or more non-binding propositions before the voters of the city.

(Ord. No. 2002-12, Prop. 4, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 4, 5-7-02/5-4-02)

## ARTICLE VII. - MUNICIPAL PLANNING AND ZONING<sup>[5]</sup>

Footnotes:

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**State Law reference**— Planning and zoning, V.T.C.A., Local Government Code, § 211.001 et seq.

### **Sec. 7.01. - Planning and zoning commission.**

- (a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation.
- (b) To be eligible for appointment to the commission, all commission members must have resided in the city for a period of five years before the date of appointment. To be eligible for continued service on the commission, the commission members must maintain residence in the city.
- (c) The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.
- (d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1990-8, Prop. 3, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 7, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 7, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(22), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 2—4, 25, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. M), 8-15-17/11-7-17)

### **Sec. 7.02. - Powers and duties of the commission.**

The commission shall have the power and be required to:

- (1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The planning and zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the planning and zoning commission. The planning and zoning commission shall follow all city ordinances, rules and regulations before making any recommendations to the city council.
- (2) Review and be the final approval authority for the subdivision and platting of land within the city and its extraterritorial jurisdiction. The council or the commission may expressly delegate authority to approve certain minor subdivision plats to the director of the planning and development services department in accordance with the provisions of state law.
- (3) Hold a public hearing and recommend to the city council the approval or disapproval of any proposed change to the city's official zoning map.
- (4) Hold public hearings and approve or deny conditional use permit applications made under the city's zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a vote of at least six members of the council in favor of reversal. Appeals to the council on conditional use permit applications will be based on the record before the planning and zoning commission, Texas and Federal laws, and San Marcos city ordinances and regulations. The decision on appeals before city council will be governed by the substantial

evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council.

- (5) Submit annually to the city council, not less than one hundred and twenty days prior to the beginning of the fiscal year, a list of recommended capital improvements found necessary or desirable.
- (6) Hold an annual public hearing on the Land Development Code and recommend any necessary or desirable changes to the council.
- (7) Perform an ongoing review of the city's comprehensive plan to include:
  - (a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;
  - (b) Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and
  - (c) Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five years.
- (8) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.
- (9) Require information from the administrative units of city government in relation to the duties of the commission listed under this section.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 12, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 17, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 4, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 5, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 5, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(12), 8-15-06/11-7-06; Ord. No. 2013-44, Props. 5, 6, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Props. N, O), 8-15-17/11-7-17)

**Editor's note**— The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.

### **Sec. 7.03. - The comprehensive plan.**

- (a) The comprehensive plan for the City of San Marcos shall be used to guide the growth and development of the city. The comprehensive plan shall be adopted by ordinance. The city council will endeavor to ensure that city ordinances governing growth and development are consistent with the goals and policies contained in the comprehensive plan; however, land use maps and descriptions contained in the comprehensive plan do not constitute zoning, and do not entitle any property owner to any change in zoning.
- (b) The commission shall conduct an ongoing review of the plan in accordance with Section 7.02. The commission may recommend amendments to the comprehensive plan after at least one public hearing on the proposed action. The council may amend the comprehensive plan after at least one public hearing on the proposed action. The council shall not act on any amendment affecting the comprehensive plan unless and until a recommendation on the amendment is received from the commission.

(Ord. No. 1984-11, Prop. 14, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 18, 1-27-86/4-5-86; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 8, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 6, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 6, 5-7-02/5-4-02; Ord. No. 2013-44, Prop. 6, 8-20-13/11-5-13)

**Editor's note**— The amendment adopted in Ordinance Number 1994-16 reenacted this section which was formerly Charter § 7.08.

### **Sec. 7.04. - Organization.**



The commission shall elect a chair from its membership annually, and shall establish rules of procedure which shall include the following:

- (1) A quorum shall consist of a majority of the membership.
- (2) The chair shall be entitled to vote upon any question.
- (3) All meetings shall be open to the public.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 10, 1-8-79/4-7-79; Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 9, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 2, 8-9-04)

## ARTICLE VIII. - FINANCIAL PROCEDURE<sup>[6]</sup>

Footnotes:

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**State Law reference**— Financial matters, V.T.C.A., Local Government Code, § 101.001.

### **Sec. 8.01. - Fiscal year.**

The fiscal year of the City of San Marcos shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**State Law reference**— Fiscal year, V.T.C.A., Local Government Code, § 101.022.

### **Sec. 8.02. - Preparation and submission of budget.**

- (a) By January 31st of each year, council shall hold a visioning session. By February 27th of each year the city council shall hold a budget policy workshop.
- (b) By March 31st of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.
- (c) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1977-7R, Prop. 6, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 15, 1-30-84/4-7-84; Ord. No. 1998-7, Prop. 9, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 7, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 7, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2017-45, § 2(Prop. P), 8-15-17/11-7-17)

**State Law reference**— Budgets, V.T.C.A., Local Government Code, § 102.001 et seq.

### **Sec. 8.03. - Anticipated revenues compared with other years in budget.**

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

### **Sec. 8.04. - Proposed expenditures compared with other years.**

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.05. - Budget a public record.**

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city's website.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2(Prop. P), 8-15-17/11-7-17)

**Sec. 8.06. - Notice of public hearing on budget.**

Not less than 30 days before the date the city council adopts the budget, the city council shall fix the time and place of public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City of San Marcos, and through electronic media, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof, the time for which publication shall be in accordance with applicable law.

(Ord. No. 1981-51, Prop. 5, 7-6-81/8-8-81; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

**Sec. 8.07. - Public hearing on budget.**

At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained. Copies of the proposed budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 21, 8-20-13/11/5/13)

**Sec. 8.08. - Proceedings on budget after public hearing.**

As a result of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.09. - Adoption after public hearing.**

The budget and the tax rate shall be adopted, after public hearings, in compliance with State law. Copies of the budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1979-2R, Prop. 6, 1-8-79/4-7-79; Ord. No. 1992-9, Prop. 11, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 22, 8-20-13/11-5-13)

**Sec. 8.10. - Date of final adoption.**

The budget and the tax rate shall be finally adopted not later than the expiration of the fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

**Sec. 8.11. - Effective date of budget; certification; copies made available.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk and such other officials as may be designated by law. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 10, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.12. - Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.13. - Budget establishes amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy for the purposes of the city in the corresponding tax year; provided, that such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

**Sec. 8.14. - Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of and distributed by the city manager after approval of the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

**Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.16. - Other necessary appropriations.**

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 8.17. - Purchase procedure.**

No contract or order shall be binding upon the city unless and until the city manager or the manager's designated representative certifies that there is to the credit of such administrative unit a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance convey upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not requiring competitive bidding or proposals under state law. All purchases shall be made in accordance with applicable ordinances and state law. When required, notice of solicitation for competitive purchases of goods and services shall appear on the city's

website and on an internet site for governmental procurements and may also be published in a newspaper of general circulation in the city.

(Res. No. 1977-7R, Props. 1, 7, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 13, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 16, 1-30-84/4-7-84; Ord. No. 1986-4, Props. 19—21, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 12, 2-8-88/5-7-88; Ord. No. 1992-9, Prop. 12, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(15), 8-19-08/11-4-08)

## ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS<sup>[7]</sup>

Footnotes:

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**State Law reference**— Authority to issue bonds, Vernon's Ann. Civ. St. art. 701 et seq., art. 823 et seq.; authority to issue bonds for public improvements, Vernon's Ann. Civ. St. art. 11751.

### **Sec. 9.01. - Power to borrow.**

The City of San Marcos shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose not prohibited by the constitution or statutes of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered a general indebtedness of the city nor repaid with funds secured by taxation.

(Ord. No. 1996-6, Prop. 9, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00)

### **Sec. 9.02. - Bond record.**

The city manager or the manager's designated representative shall prepare, maintain and cause to be filed in the city manager's office a complete bond record, showing all bonds and certificates of obligation, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of San Marcos. A copy of the bond record shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1992-9, Prop. 13, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(14), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(16), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 23, 8-20-13/11-5-13)

### **Sec. 9.03. - Misapplication of bond funds.**

Any officer or employee of the City of San Marcos who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 4)

## ARTICLE X. - TAX ADMINISTRATION<sup>[8]</sup>

Footnotes:

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**State Law reference**— Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code, § 302.001 et seq.

### **Sec. 10.01. - Tax administration.**

The city council shall provide for the administration and collection of property taxes in accordance with state law. This may be accomplished through interlocal agreement with another taxing unit whose taxing jurisdiction overlaps all or part of the city's taxing jurisdiction.

(Ord. No. 1981-51, Prop. 6, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 14, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 3, 8-9-04)

**Sec. 10.02. - Power to tax.**

The City Council of the City of San Marcos shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each \$100.00 assessed valuation of all real and personal property within the corporate limits of the City of San Marcos and not exempt from taxation by the constitution and laws of the State of Texas; however, provisions must be made annually to assess and collect a sum sufficient to pay the interest on any debts of the city and to create a sinking fund of at least two percent of such debt.

(Res. No. 1977-7R, Prop. 8, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

**Sec. 10.03. - Property subject to tax, methods of assessment.**

All real and tangible personal property that the State of Texas has jurisdiction to tax, shall be subject to annual taxation by the City of San Marcos unless exempted by state law if the real property is located within the corporate limits of the City of San Marcos on January 1 and the tangible personal property is:

- (1) Located in the City of San Marcos on January 1 for more than a temporary period;
- (2) Normally located in the City of San Marcos, even though it is outside the city on January 1, if it is outside the city only temporarily;
- (3) Normally returned to the City of San Marcos between uses elsewhere and is not located in any one place for more than a temporary period; or
- (4) That in which the owner resides (for property not used for business purposes) or maintains his principal place of business in Texas (for property used for business purposes) in the City of San Marcos and the property is taxable in Texas but does not have a taxable situs pursuant to (1)—(3) above.

All procedures and actions relating to property taxation shall be conducted pursuant to the requirements of the Texas Property Tax Code. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of San Marcos, shall render said property as required by the Texas Property Tax Code and the chief appraiser of the Hays County Appraisal District.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 17, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 10.04. - Reserved.**

**Editor's note—** A Charter amendment adopted April 7, 1984, deleted § 10.04, pertaining to the board of equalization. The section derived unamended from the city's Home Rule Charter as adopted Feb. 24, 1967, and has been reserved for future use.

**Sec. 10.05. - Taxes; when due and payable.**

All taxes due the City of San Marcos shall be payable at the office of the city assessor-collector and may be paid at any time after October 1. Unless otherwise provided by State law, taxes for each tax year shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to penalty and interest at the maximum percentage permitted by law.

(Ord. No. 1981-51, Prop. 7, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 19, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(18), 8-19-08/11-4-08)

**Sec. 10.06. - Seizure and sale of personal property.**

Personal property is subject to seizure for the payment of a delinquent tax, penalty and interest owed the City of San Marcos. Personal property is subject to seizure for the payment of a tax imposed by the City of San Marcos on property before the tax becomes delinquent as provided by the Texas Property Tax Code. Sale of such seized property shall be pursuant to the federal and state constitution and the Texas Property Tax Code.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 20, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

**Sec. 10.07. - Tax liens.**

- (a) The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1, in each year until the taxes are paid.
- (b) Personal property may not be seized and a suit may not be filed:
  - (1) To collect a tax on personal property that has been delinquent more than four years; or
  - (2) To collect a tax on real property that has been delinquent more than 20 years.
- (c) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.
- (d) The city's tax lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. All persons or corporations owning or holding personal property or real estate in the City of San Marcos on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year. The City of San Marcos is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 1984-11, Prop. 21, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 4, 8-9-04)

**Sec. 10.08. - Tax remissions, discount, and compromises.**

The city council or any other official of the city shall never extend the time for payment of taxes or remit, discount or compromise any tax legally due the city or waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the city for such year or years except as permitted by state law; provided, however, that this provision shall not prevent the compromise of any tax suit.

(Ord. No. 1988-15, Prop. 13, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00)

**ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES<sup>[9]</sup>**

Footnotes:

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**State Law reference**— Authority, Vernon's Ann. Civ. St. arts. 1175, 1181, 1182.

**Sec. 11.01. - Definitions; powers of the city council.**

- (a) In this article:

- (1) "Public service company" means any company, individual, partnership, corporation or other entity recognized by law that uses the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to public utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.
  - (2) "Public utility" means any water, wastewater, gas, electricity or telecommunications utility that operates or offers service in the city.
  - (3) "Telecommunications utility" includes any company that provides or offers to provide telephone, cable television or other similar services for the transmission of voice, data or video information.
- (b) The city council has the following powers regarding public service companies of every character operating in the city:
- (1) To buy, condemn, construct, lease, maintain, and operate public utility systems in the city;
  - (2) To sell, manufacture, and distribute the services and output of city public utility systems;
  - (3) To prohibit the use of city streets, alleys, easements or other grounds by a public service company unless the company first obtains a franchise, permit, certificate or other authorization in accordance with this article and applicable ordinances; and
  - (4) To regulate public service companies in the interest of public health, welfare, and safety.
- (c) The authority of the council under this article is subject to federal and state laws regarding public utilities. The provisions of this article will be disregarded to the extent of any conflict between them and federal and state laws.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

#### **Sec. 11.02. - Power to grant franchise.**

The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than five years from the date of the grant, renewal or extension.

(Ord. No. 1988-15, Prop. 14, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

#### **Sec. 11.03. - Reserved.**

**Editor's note**— Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 11.03 in its entirety. Former § 11.03 pertained to authorizations not to be exclusive and derived from Ord. No. 1988-15, Prop. 14, adopted Feb. 8, 1988, passed at referendum on May 7, 1988; Ord. No. 2000-12, Prop. 12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; Ord. No. 2000-40, Prop. 12, adopted May 9, 2000, passed at referendum on May 6, 2000.

#### **Sec. 11.04. - Ordinance granting franchise; public hearing.**

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall, and on the city's website, and the expense of such publication shall be borne by the applicant for the franchise.



(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, § 2 (Prop. Q), 8-15-17/11-7-17)

**Sec. 11.05. - Transfer of franchise.**

No public utility franchise shall be assigned or transferred except with the approval of the council expressed by ordinance. The term "assigned or transferred" includes a transfer of a controlling interest in stock, and an assignment or transfer to an affiliated or subsidiary person or company, but the term does not include the pledging of a franchise as security for a valid debt or mortgage.

(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

**Sec. 11.06. - Franchise value not to be allowed.**

No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city, or in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.07. - Right of regulation.**

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

- (1) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.
- (2) To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain plant and fixtures at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To impose regulations to ensure safe, efficient and continuous service to the public.
- (5) To collect from every franchise holder its fair and just proportion of the expense of maintaining areas of public property occupied by the franchise holder, or to compel the franchise holder to perform its fair and just share of the work of maintaining areas of public property occupied by the franchise holder at its own expense.
- (6) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation.
- (7) To prescribe the form of accounts kept by such utility.
- (8) To require such compensation and rental as may be permitted by federal or state law.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.08. - Public service companies to file annual reports.**

The city council by ordinance shall require each public service company operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the company for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the public service company. These reports shall be filed with the city clerk, and preserved for the use of the city council. The reports may be reviewed periodically by the council to determine the propriety of the rates being charged and will be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(15), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 24, 8-20-13/11-5-13)

**Sec. 11.09. - Regulation of rates.**

The council shall have the power to:

- (1) Regulate by ordinance the rates of every public service company operating in the city, provided that no such ordinance shall be passed as an emergency measure;
- (2) Employ expert advice and assistance in determining a rate and equitable profit to the public service company; and shall have the power to require, as a condition precedent to any hearing concerning rates and service of a company, that the company pay the cost of such expert advice and assistance as chosen and deemed necessary by the council.

(Ord. No. 1988-15, Prop. 15, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.10. - Municipally owned utilities.**

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

**Sec. 11.11. - Regulation of city owned public utilities.**

The council has authority to supervise and regulate the operations of city owned public utilities, including the following:

- (1) To establish the rates, terms and conditions for the sale of utility services.
- (2) To prescribe rules and standards for the construction, extension, maintenance and operation of production, transmission and distribution facilities.

The council may exercise this authority itself, or it may delegate all or part of the authority to a board of citizens to oversee one or more of the city's public utilities.

(Ord. No. 1996-6, Prop. 11, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

## **ARTICLE XII. - GENERAL PROVISIONS**

**Sec. 12.01. - Public access to records.**

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

(Ord. No. 1988-15, Prop. 16, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 5, 8-9-04)

**State Law reference—** Public records act, V.T.C.A., Government Code, § 552.001 et seq.

**Sec. 12.02. - Personal interest and code of ethics.**

- (a)
  - (1) All elected and appointed officers of the city shall comply with applicable requirements of state law and city ordinances pertaining to conflicts of interest of local government officials.
  - (2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official - even if such a change is temporary. For this part "significant" means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.
  - (3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings. These provisions shall not apply to purchases from the city of land, materials, supplies or services that are made available for purchase to all members of the public.
  - (4) For a period of two years from the date of leaving office, a city council member shall not have any financial interest in the sale to the city of any land or interest in land or in any contract for consulting, development, or construction services. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.
- (b) It is the policy of the City of San Marcos that all city officials and employees shall act and conduct themselves both inside and outside the city's service so as to give no occasion for distrust for their integrity, impartiality or of their devotion to the best interest of the City of San Marcos and the public trust which it holds. To this end and to expressly assure its accomplishment, the city council shall establish and maintain an ethics review commission, and shall adopt and maintain a code of ethics for officials and employees of the City of San Marcos in ordinance form. The city council shall appoint an ethics review commission composed of seven citizens of the City of San Marcos to serve three-year staggered terms. A chair shall be elected by a majority of the commission after the annual appointment of members to the commission.
- (c) Duties of the ethics review commission:
  - (1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.
  - (2) Conduct hearings into allegations of violations of the city's code of ethics, a state conflict of interest law, or the city charter according to the procedures set forth in the city's ethics ordinance.
  - (3) Render advisory opinions on potential conflicts of interest, violation of the city's code of ethics, or the city charter at the request of a public official or employee.
  - (4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, a state conflict of interest law, or the city charter.

- (5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

(Res. No. 1979-2R, Props. 5, 7, 1-8-79/4-7-79; Ord. No. 1986-4, Props. 22—24, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 17, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 5, 2-12-90/5-5-90; Ord. No. 1998-7, Prop. 11, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(16), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(20), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Props. R—U), 8-15-17/11-7-17)

**Sec. 12.03. - Nepotism and conflict of interest.**

- (a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under state law. For purposes of this section, the following are defined as public officials:
  - (1) The mayor and members of city council.
  - (2) City manager.
  - (3) City clerk.
  - (4) City attorney.
  - (5) Presiding judge of the municipal court.
- (b) No business partner or person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any member of the city council or other public official of the city shall be employed or appointed to any office, position, board, or commission of the city. This prohibition shall not apply, however, to any person who shall have been continuously employed by the city for a period of at least six months prior to the election or appointment of the public official so related to him or her.

(Ord. No. 1994-16, Prop. 9, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2(Prop. V), 8-15-17/11-7-17)

**State Law reference—** Nepotism, V.T.C.A., Government Code, § 573.001 et seq.

**Sec. 12.04. - Provisions relating to assignment, execution and garnishment.**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Ord. No. 2000-12, 2-14-00/5-6-00)

**State Law reference—** Garnishment, V.T.C.A., Local Government Code, §§ 51.076(b), 101.023.

**Sec. 12.05. - City not required to give security or execute bond.**

It shall not be necessary in any action, suit or proceeding in which the City of San Marcos is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals, or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

**Sec. 12.06. - Special provisions covering damage suits.**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in that person's behalf shall give the city manager or the person performing the duties of city clerk, notice in writing within 90 days after the occurrence

of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. Provided however, that the ninety-day notice requirement of this section may be extended by a court of competent jurisdiction for good cause shown if the injured party has exercised due diligence, if any delay in giving the notice required by this section is not the result of conscious indifference by the party and if there is no substantial harm to the city caused by the delay. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of 30 days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city clerk. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of San Marcos waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 9, 7-6-81/8-8-81; Ord. No. 1988-15, Prop. 18, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

**State Law reference**— Tort claims, V.T.C.A., Civil Practice and Remedies Code, § 101.101 et seq.

#### **Sec. 12.07. - Separability clause.**

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

(Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 12.08. - Effect of this Charter on existing law.**

All ordinances, resolutions, rules, and regulations now in force under the city government of San Marcos and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of San Marcos under existing franchises and contracts are preserved in full force and effect to the City of San Marcos.

(Ord. No. 2000-12, 2-14-00/5-6-00)

#### **Sec. 12.09. - Holdover of officers.**

All officers of the city, including appointed members of city boards and commissions, shall continue to perform the duties of their offices until their successors are duly qualified.

(Ord. No. 2002-12, Prop. 8, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 8, 5-7-02/5-4-02)

**Editor's note**— Former § 12.09, interim municipal government, was deleted by Ord. No. 1992-9, adopted Feb. 10, 1992, Prop. 15. The deleted provisions derived from the Home Rule Charter adopted at an election held Feb. 24, 1967.

#### **Sec. 12.10. - Applicability of general laws.**

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of San Marcos. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of San Marcos shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08)

#### **Sec. 12.11. - Amending the Charter.**

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by state law and in compliance with the provisions of this Charter pertaining to the holding of elections, including the requirements in Section 6.03 for verification of signatures on any petition paper that have been continuously in effect since the adoption of the original city charter on February 24, 1967.

(Ord. No. 1992-9, Prop. 16, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2015-32, § 2, 8-18-15/11-3-15)

#### **Sec. 12.12. - Charter review commission.**

Beginning in January 2013 and at least every four years thereafter, the city council shall appoint a Charter review commission of seven citizens of the City of San Marcos.

(a) *Duties of the commission:*

- (1) Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.
- (2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the city government.
- (3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions.
- (4) Report its finding and present its proposed amendments, if any, to the city council.

(b) The city council may take action to amend the Charter in the manner provided by state law.

(c) *Term of office:* The term of office of such Charter review commission shall be six months, and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city clerk and shall become a public record.

(Ord. No. 1986-4, Props. 25, 26, 1-27-86/4-5-86; Ord. No. 1992-9, Props. 16, 17, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-09, § 2(1), 8-19-08/11-4-08)

#### **Sec. 12.13. - Reserved.**

**Editor's note**— Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 12.13 in its entirety. Former § 12.13 pertained to non-substantive changes and corrections to Charter provisions and derived from Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000.

#### **Sec. 12.14. - Reserved.**

**Editor's note**— Former § 12.14 relative to the manner of the original adoption of the Charter by the voters has been deleted by proposition number 27 of the Apr. 5, 1986 Charter amendments.

#### **Sec. 12.15. - Fluoridation of municipal water supply.**

The City of San Marcos shall not add, or direct or require its agents to add fluoride in the form of hydrofluorosilicic acid, hexafluorosilicic acid, or sodium silicofluoride to the San Marcos municipal water supply.

(Ord. No. 2015-32, § 2, 8-18-15/11-3-15)

ORDINANCE NO. 2017-45

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ORDERING A GENERAL AND SPECIAL ELECTION TO BE HELD ON NOVEMBER 7, 2017 FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR PLACE 3, A CITY COUNCIL MEMBER FOR PLACE 4 AND TO SUBMIT PROPOSED AMENDMENTS TO THE SAN MARCOS CITY CHARTER TO THE VOTERS; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THIS ELECTION; MAKING PROVISIONS FOR CONDUCTING THE ELECTION; PROVIDING FOR THE APPROVAL OF THIS ORDINANCE AS AN EMERGENCY MEASURE ON ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. A general and special election is ordered to be held by the City of San Marcos (the "City") at the various polling places and election precincts within the corporate limits of the City, as hereinafter designated, on November 7, 2017 from the hours of 7:00 a.m. to 7:00 p.m. This General and Special City Election will be conducted jointly with Hays County and will be administered for the City by the Hays County Elections Administrator. At the General Election the qualified voters of the City will elect a City Council Member for Place 3 and a City Council Member for Place 4 with each Council Member position having a term of three years. At the concurrent Special City Election, the voters will consider proposed amendments to the San Marcos City Charter as set forth in this ordinance. The official canvass of the election shall be held November 15, 2017 following Election Day. In the event it becomes necessary to conduct a Runoff Election, it will be necessary to call the Runoff Election the same day the final canvass of the main election is completed, November 15, 2017. The Runoff Election shall be held not earlier than the 20<sup>th</sup> nor later than the 45<sup>th</sup> day after the date the final canvass of the Regular Election is completed. Canvass of the returns of the Runoff Election, if necessary, shall be held no earlier than the 8<sup>th</sup> day not later than the 11<sup>th</sup> day following the date of the Runoff Election.

SECTION 2. The ballots for the City election will conform to the requirements of the Texas Election Code, and will contain the following propositions that correspond to and summarize each of the proposed charter text amendments set forth in section 3 of this ordinance:

PROPOSITION - A

FOR/AGAINST

The amendment of Sections 1.01 and 1.02 to replace references to "municipal government" with the term "city government."



PROPOSITION - B

FOR/AGAINST      The amendment of Section 1.03 of the City Charter (Statement of Goals) to add the following as goals of the city government: to promote high quality affordable housing; and to conserve and protect the San Marcos River, its springs, aquifer, and tributaries.

PROPOSITION - C

FOR/AGAINST      The amendment of Section 3.02 of the City Charter (Qualifications of Council Members) to allow the address shown on a current Texas identification card to be used, in addition to a current Texas driver's license, to prove the person's principal physical residence is in the city.

PROPOSITION - D

FOR/AGAINST      The amendment of Section 3.05 of the City Charter to change all references to "mayor pro tempore" to "mayor pro tem" and to require the appointment of a deputy mayor pro tem after each regular election of council members.

PROPOSITION - E

FOR/AGAINST      The amendment of Section 3.09 of the City Charter (Meetings of the City Council) to require the council to hold twenty-two regular meetings at a minimum each year instead of requiring the council to hold two regular meetings each month.

PROPOSITION - F

FOR/AGAINST      The amendment of Sections 3.09 and 6.02 of the City Charter to replace all references to the "city secretary" with the term "city clerk."

PROPOSITION - G

FOR/AGAINST      The amendment of Section 3.11 of the City Charter (Passage of Ordinances) to require the city attorney to approve the legality of ordinances or file written objections prior to consideration by the city council instead of after adoption.

PROPOSITION - H

FOR/AGAINST      The amendment of Section 4.01 of the City Charter (City Manager) to require a vote of at least five members of the city council, instead of four, to remove the city manager.

PROPOSITION - I

FOR/AGAINST      The amendment of Section 4.02 of the City Charter (City Clerk) to allow the city clerk to authenticate ordinances and resolutions by electronic signature.

PROPOSITION - J

FOR/AGAINST      The amendment to add a new section 4.07(Publication of Salaries) to require the salary range of each city position to be published on the city's website.

PROPOSITION – K

FOR/AGAINST      The amendment of Section 5.03 of the City Charter (Filing For Office) to require all candidates to sign the code of fair campaign practices in the Texas Election Code and require campaign contribution reports to be legible.

PROPOSITION – L

FOR/AGAINST      The amendment of Section 5.04 of the City Charter (The Official Ballot) to reword the first sentence thereof to read as follows:

“The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be ~~printed~~ included on the official ballots without party designation.”

PROPOSITION - M

FOR/AGAINST      The amendment of Section 7.01 of the of the City Charter (Planning and Zoning Commission) to eliminate real property ownership as a requirement for appointment or continued service on the commission; increase the residency requirement for appointment from three years to five years; and delete obsolete references to a commission member residing in the city's extraterritorial jurisdiction.

#### PROPOSITION - N

FOR/AGAINST      The amendment of Section 7.02 of the City Charter (Powers and Duties of the Planning and Zoning Commission) to add a provision that requires the planning and zoning staff to consult with the city attorney and follow all city ordinances, rules, and regulations before making any recommendations to the commission; and requires the commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council.

#### PROPOSITION - O

FOR/AGAINST      The amendment of Section 7.02 of the City Charter (Powers of the Planning and Zoning Commission) to clarify that a vote of at least six members of the city council (currently stated as "a three-fourths vote of the council") is required to reverse the denial of a conditional use permit by the commission and require appeals to the council on conditional use permit applications to be based on Texas and federal laws, city ordinances, and regulations.

#### PROPOSITION - P

FOR/AGAINST      The amendment of Section 8.02 of the City Charter (Preparation and Submission of Budget) and Section 8.05 (Budget a Public Record) to require the city council to take the following actions each year in the preparation of the city budget: conduct a visioning session by January 31<sup>st</sup>; conduct a budget policy workshop by February 27<sup>th</sup>; formulate a budget policy statement by March 31<sup>st</sup>; make copies of the proposed budget available at the San Marcos Public Library, at City Hall, and on the city's website; and publish the adopted budget and all supporting schedules on the city's website

#### PROPOSITION – Q

FOR/AGAINST      The amendment of Section 11.04 of the City Charter (Ordinance Granting Franchise) to make the city's current practice of making the full text of an ordinance granting a public utility franchise available at the San Marcos Public Library, at City Hall, and on the city's website a charter requirement.

#### PROPOSITION - R

FOR/AGAINST      The amendment of Section 12.02(a)(2) of the City Charter (Personal Interest and Code of Ethics) to add a provision to require updating of annual financial disclosure statements filed by city council members and members of boards and commissions within thirty

days of any significant changes that would, if not disclosed, render the statement misleading or incomplete.

PROPOSITION – S

FOR/AGAINST

The amendment of Section 12.02(a)(3) of the City Charter (Personal Interest and Code of Ethics) to prohibit members of the city council and city employees from purchasing land, materials, supplies or services from the city with the exception of purchases made available to all members of the public.

PROPOSITION - T

FOR/AGAINST

The amendment adding a new subsection 12.02(4) to the City Charter to prohibit former council members from having any financial interest in the sale to the city of any land or interest in land or in a contract for consulting, development, or construction services for a period of two years after leaving office. Allowing the council or city manager to void contracts entered into in violation of this provision. Providing an exception for the city's acquisition of land or an interest in land from a former council member under the threat of eminent domain proceedings.

PROPOSITION – U

FOR/AGAINST

The amendment of Section 12.02, Subsection (c) of the City Charter (Duties of the Ethics Review Commission) to add a new provision that gives the Commission the authority to conduct hearings and make recommendations regarding alleged violations of the city charter.

PROPOSITION - V

FOR/AGAINST

The amendment to Section 12.03 of the City Charter (Nepotism) to reword the section caption to include both nepotism and conflict of interest; prohibit the employment or appointment of a business partner or person related within the second degree by affinity or within the third degree by consanguinity to the mayor, a council member, the city manager, city clerk, city attorney or presiding judge of the city to any office, position, board, or commission of the city; and provide an exemption for persons who have been continuously serving in their office or position for at least six months prior to the election or appointment of the related public official.

## PROPOSITION – W

FOR/AGAINST      Amending the City Charter to correct grammatical, punctuation and spelling errors.

SECTION 3. If approved by the voters, the San Marcos City Charter would be amended as follows: [proposed deleted text is shown with ~~strike throughs~~–and proposed added text is underlined]:

### TEXT AMENDMENT – FOR PROP “A”

SECTIONS 1.01 AND 1.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 1.01. - Establishment and purposes of Charter.**

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city ~~municipal~~ government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities stated in this Charter.

#### **Sec. 1.02. - Form of government.**

The city ~~municipal~~ government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

TEXT AMENDMENT - FOR PROP "B"

SECTION 1.03 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 1.03. - Statement of goals.**

The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost-efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.

TEXT AMENDMENT – FOR PROP "C"

SECTION 3.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.02. - Qualifications.**

(a) Each member of the city council, in addition to having other qualifications prescribed by law:

- (1) Shall be a qualified voter of the city;
- (2) Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:
  - (A) The person must use the residence address for voter registration, ~~and~~ current driver's license or Texas identification card ~~purposes~~;
  - (B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;
  - (C) The person must not claim a homestead exemption on any property other than the residence;
- (3) Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;
- (4) Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial

railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

- (5) Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city.
  - (6) Shall remain current on all financial obligations to the city relating to the duties of the council member.
- (b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

#### TEXT AMENDMENT - FOR PROP "D"

SECTION 3.05 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.05. - Mayor, mayor pro tempore and deputy mayor pro tempore.**

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tempore, and ~~may~~ shall in addition designate a deputy mayor pro tempore, who each shall serve in such capacity for a period of one year; provided, however, that in the event a runoff election is required the city council shall not designate a mayor pro tempore or deputy mayor pro tempore until the runoff election is completed and the duly elected candidates have been officially seated on the council. The mayor pro tempore shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present. The deputy mayor pro tempore shall act as mayor during the absence or disability of the mayor and mayor pro tempore, and shall have power to perform every act the mayor could perform if present.

#### TEXT AMENDMENT – FOR PROP "E"

SECTION 3.09 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.09. - Meetings of the city council.**

The city council shall hold ~~at least two~~ twenty-two regular meetings ~~in~~ at a minimum each ~~month~~ year at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling

for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city secretary upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

#### TEXT AMENDMENT - FOR PROP "F"

SECTIONS 3.09 AND 6.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.09. - Meetings of the city council.**

The city council shall hold ~~at least two~~ twenty-two regular meetings ~~in~~ at a minimum each ~~month~~ year at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city ~~secretary~~ clerk upon the written request of the mayor or any three members of the city council.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

**Sec. 6.02. - Power of referendum.**

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified voters of the city may be filed with the city ~~secretary~~ clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city ~~secretary-clerk~~, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.

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TEXT AMENDMENT – FOR PROP “G”

SECTION 3.11 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.11. - Procedure for passage of ordinances.**

- (a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".
- (b) The city attorney shall approve the legality of all ordinances ~~adopted~~ prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.
- (c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.
- (d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.
- (e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:
  - (1) an ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or
  - (2) the adoption of an ordinance under a different procedure is expressly authorized by state law.
- (f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.
- (g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.
- (h) All ordinances shall be effective upon final reading or publication if publication is required by state law.

TEXT AMENDMENT – FOR PROP “H”

SECTION 4.01 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 4.01. - City manager.**

- (a) *Appointment and qualifications:* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the

basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

- (b) *Term and salary:* The city manager shall not be appointed for a definite term, but may be removed by a vote of ~~the majority~~ five members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.
- (c) *Duties of the city manager:*
- (1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.
  - (2) To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.
  - (3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.
  - (4) To keep the city council fully advised of the financial condition and needs of the city.
  - (5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.
  - (6) To perform other duties as provided by this Charter and as prescribed by the city council.

#### TEXT AMENDMENT – FOR PROP “I”

SECTION 4.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

##### **Sec. 4.02. - City clerk.**

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

TEXT AMENDMENT – FOR PROP “J”

SECTION 4.07 WOULD BE ADDED TO THE CITY CHARTER AND IT WOULD READ AS FOLLOWS:

**Sec. 4.07. - Publication of salaries**

The salary range of each city position shall be published on the city’s website.

TEXT AMENDMENT – FOR PROP “K”

SECTION 5.03 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 5.03. - Filing for office.**

Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall sign the code of fair campaign practices provided in Section 258.004 of the Texas Election Code. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate's sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter. All campaign contribution reports filed by candidates shall be legible.

TEXT AMENDMENT – FOR PROP “L”

SECTION 5.04 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 5.04. - The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be ~~printed~~ included on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or the candidate's named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

TEXT AMENDMENT - FOR PROP “M”

SECTION 7.01 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 7.01. - Planning and zoning commission.**

- (a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation.
- (b) To be eligible for appointment to the commission, ~~all eight of the~~ commission members must have resided ~~and owned real property~~ in the city for a period of ~~three~~ five years before the date of appointment, ~~and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment.~~ To be eligible for continued service on the commission, the commission members ~~appointed as city residents~~ must maintain residence ~~and property ownership~~ in the city, ~~and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.~~ ~~Effective March 1, 2015 the ETJ member of the commission shall be deleted and a qualified city resident member shall be appointed.~~
- ~~{(c)}~~ ~~To be eligible for election and continued service as chair of the commission, a commission member must reside in the city.~~
- ~~{(d)}~~ The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.
- ~~{(e)}~~ d In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

TEXT AMENDMENT – FOR PROP “N”

SECTION 7.02, SUBPART 1, OF THE CITY CHARTER RELATING TO THE POWERS AND DUTIES OF THE PLANNING AND ZONING COMMISSION WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 7.02. - Powers and duties of the commission.**

The commission shall have the power and be required to:

- (1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The Planning and Zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the Planning and Zoning Commission. The Planning and Zoning

Commission shall follow all city ordinances, rules, and regulations before making any recommendations to the City Council.

TEXT AMENDMENT – FOR PROP “O”

SECTION 7.02, SUBPART 4, OF THE CITY CHARTER, PERTAINING TO THE APPROVAL OF CONDITIONAL USE PERMITS, WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 7.02. - Powers and duties of the commission.**

The commission shall have the power and be required to:

- (4) Hold public hearings and approve or deny conditional use permit applications made under the city's zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a three-fourths vote of at least six members of the council in favor of reversal. Appeals to the council on conditional use permit applications will be based on the record before the Planning and Zoning Commission, Texas and Federal laws, and San Marcos city ordinances and regulations. The decision on appeals before city council ~~and~~ will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council.

TEXT AMENDMENT - FOR PROP “P”

SHALL SECTIONS 8.02 AND 8.05 OF THE CITY CHARTER BE AMENDED TO READ AS FOLLOWS:

**Sec. 8.02. - Preparation and submission of budget.**

- ~~(e)~~(a) By January 31<sup>st</sup> of each year, council shall hold a visioning session. By February 27<sup>th</sup> of each year the city council shall hold a budget policy workshop.
- (b) By ~~April 30~~ March 31<sup>st</sup> of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget
- ~~(a)~~(c) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.

**Sec. 8.05. - Budget a public record.**

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city's website.

TEXT AMENDMENT – FOR PROP “Q”

SECTION 11.04 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 11.04. - Ordinance granting franchise; public hearing.**

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall, and on the city's website, and the expense of such publication shall be borne by the applicant for the franchise.

TEXT AMENDMENT - FOR PROP “R”

SECTION 12.02, SUBSECTION (A)(2), OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 12.02. - Personal interest and code of ethics.**

(a)

- (2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official – even if such a change is temporary. For this part “significant” means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.

TEXT AMENDMENT – FOR PROP “S”

SECTION 12.02, SUBSECTION (A)(3), OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 12.02. - Personal interest and code of ethics.**

(a)

(3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings. These provisions shall not apply to purchases from the city of land, materials, supplies or services that are made available for purchase to all members of the public.

TEXT AMENDMENT – FOR PROP “T”

SECTION 12.02 OF THE CITY CHARTER WOULD BE AMENDED BY ADDING SUBSECTION (A)(4) AND IT WOULD READ AS FOLLOWS:

**Sec. 12.02. - Personal interest and code of ethics.**

(a)

(4) For a period of two years from the date of leaving office, a city council member shall not have any financial interest in the sale to the city of any land or interest in land or in any contract for consulting, development, or construction services. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.

TEXT AMENDMENT - FOR PROP “U”

SECTION 12.02, SUBSECTION (C) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

**Sec. 12.02. - Personal interest and code of ethics.**

(c) Duties of the ethics review commission:

- (1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.
- (2) Conduct hearings into allegations of violations of the city's code of ethics, ~~or a state conflict of interest law,~~ or the city charter according to the procedures set forth in the city's ethics ordinance.
- (3) Render advisory opinions on potential conflicts of interest, ~~or violation of the city's code of ethics,~~ or the city charter at the request of a public official or employee ~~covered by the code of ethics.~~
- (4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, ~~or a state conflict of interest law,~~ or the city charter.
- (5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

#### TEXT AMENDMENT – FOR PROP “V”

SECTION 12.03 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 12.03. – Nepotism and Conflict of Interest**

~~The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.~~

- (a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For purposes of this section, the following are defined as public officials:
  - (1) The mayor and members of city council
  - (2) City Manager
  - (3) City Clerk
  - (4) City Attorney
  - (5) Presiding judge of the municipal court
- (b) No business partner or person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any member of the city council or other public official of the city shall be employed or appointed to any office, position, board, or commission of the city. This prohibition shall not apply, however, to any person who shall have been continuously employed by the city for a period of at least six months prior to the election or appointment of the public official so related to him or her.

SECTION 4. The polling places for each precinct for this election shall be as follows:



PRECINCTS VOTING	POLLING PLACE LOCATION
110/113	Hays County Health Department 401 A Broadway St San Marcos, Texas 78666
111/112	Dunbar Center 801 Martin Luther King Drive San Marcos, Texas 78666
120	San Marcos Housing Authority Residents Office 820 Sturgeon Street San Marcos, Texas 78666
301/315/316/317	First Baptist Church 325 W McCarty Lane San Marcos, Texas 78666
318/330/336/339	First Lutheran Church 130 W Holland San Marcos, Texas 78666
332/334	Travis Elementary School 1437 Post Road San Marcos, Texas 78666
413/414	Allenwood Homes Auditorium 1201 Thorpe Lane San Marcos, Texas 78666
415/447	Promiseland Church 1650 Lime Kiln Road San Marcos, Texas 78666

SECTION 5. As per the contract, the Hays County Election Administrator shall appoint presiding judges and alternate judges to serve in this election, and it shall be each such judge's duty to hold the election in their respective precincts

SECTION 6. Each presiding judge may appoint up to four clerks, and with the permission of the Hays County Election Administrator, additional clerks, to serve for each precinct in this election.

SECTION 7. The precincts numbered 110, 111, 112, 113, 120, 125, 127, 129, 221, 223, 224, 225, 226, 228, 229, 230, 232, 234, 236, 238, 301, 315, 316, 317, 318, 332, 333, 334, 335, 336, 337, 339, 413, 414, 415, 416, 417, 418, 419, 420, 421, 440, 441, 442, 443, 444, 447, and 449 shall be polling places for the election.

SECTION 8. Jennifer Anderson is appointed Early Voting Clerk for the City.

SECTION 9. The main early polling place for early voting by personal appearance for the election is the Government Center Conference Room, 712 S. Stagecoach Trail, San Marcos, TX 78666. Early voting by personal appearance shall be conducted during the following stated

dates and times (excluding holidays) in the Government Center Conference Room: October 23, 2017 through October 27, 2017 from 8:00 a.m. to 5:00 p.m.; on October 28, 2017 from 10:00 a.m. to 2:00 p.m.; on October 29, 2017 from 1:00 p.m. to 6:00 p.m.; and on October 30, 2017 through November 3, 2017 from 7:00 a.m. to 7:00 p.m. In addition, temporary branch and mobile early polling places for early voting by personal appearance for the City election are established at the following locations, with voting to be conducted at the dates and times indicated:

<u>Location</u>	<u>Date</u>	<u>Time</u>
Hays County Precinct 4 Office 195 Roger Hanks Pkwy Dripping Springs, Texas	October 23 – 27, 2017 October 28, 2017 October 29, 2017 October 30-November 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 1:00p.m. to 6:00p.m. 7:00a.m. to 7:00p.m.
Hays County Precinct 2 Office 5458 FM 2770 @Crystal Meadow Dr Kyle, Texas	October 23 – 27, 2017 October 28, 2017 October 29, 2017 October 30-November 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 1:00p.m. to 6:00p.m. 7:00a.m. to 7:00p.m.
Wimberley Community Center 14068 Ranch Road 12 Wimberley, Texas	October 23 – 27, 2017 October 28, 2017 October 29, 2017 October 30-November 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 1:00p.m. to 6:00p.m. 7:00a.m. to 7:00p.m.
Texas State University-San Marcos LBJ Student Center 700 Student Center Drive San Marcos, Texas	October 23, 2017 October 24, 2017	11:00a.m. to 7:00 p.m. 8:00a.m. to 5:00p.m.
Kyle City Hall 100 W. Center Street Kyle, Texas	October 23 – 27, 2017 October 28, 2017 October 30, 2017 November 2 & 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 8:00a.m. to 5:00p.m. 7:00a.m. to 7:00p.m.
Buda City Hall 121 N. Main Street Buda, Texas	October 23 – 27, 2017 October 28, 2017 October 30, 2017 November 2 & 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 8:00a.m. to 5:00p.m. 7:00a.m. to 7:00p.m.
Hays County Health Dept. 401 A Broadway St San Marcos, Texas	October 25 – 27, 2017 October 28, 2017 October 29, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 2:00p.m. 1:00p.m. to 6:00p.m.
McCormick Middle School 5700 Dacy Lane Buda, Texas	October 26 – 27, 2017 October 28, 2017 November 2 & 3, 2017	8:00a.m. to 5:00p.m. 10:00a.m. to 5:00p.m. 7:00a.m. to 7:00p.m.

Fire Station #2  
150 Bunton Creek Road  
Kyle, Texas

November 1 – 3, 2017

7:00a.m. to 7:00p.m.

SECTION 10. Early voting by mail ballot shall be conducted in accordance with applicable provisions of the Texas Election Code. The address of 712 S. Stagecoach Trail, San Marcos, Texas 78666, shall be the early voting clerk's mailing address to which ballot applications and ballots voted by mail may be sent for the City.

SECTION 11. All early votes and other votes to be processed in accordance with early voting procedures pursuant to the Texas Election Code shall be delivered to the Early Voting Ballot Board at the Hays County Election Administrator's office which is located in the City, in accordance with the Election Code. Early votes shall be counted at the central counting station. The Early Voting Ballot Board shall perform in accordance with applicable provisions of the Election Code.

SECTION 12. A Direct Record Electronic ("DRE") System, as the term is defined in the Texas Election Code, shall be utilized in connection with the election. This system shall be utilized for all early voting as well as for all precinct voting conducted on election day. The Hays County Election Administrator will appoint a programmer, who shall prepare a program for the automatic tabulating equipment. Ample voting equipment shall be provided for early voting and in each of the various precincts on election day. The central counting station is established as the Hays County Elections Administrator's office, 712 S. Stagecoach Trail, San Marcos, Texas.

SECTION 13. The Hays County Elections Administrator will appoint the Early Voting Ballot Board, a Presiding Judge of the Central Counting Station, a Tabulation Supervisor of the Central Counting Station, and a Central Counting Station Manager.

SECTION 14. The election will be held in accordance with the provisions of the Charter and Ordinances of the City of San Marcos and the laws of the State of Texas. The deadline for filing by candidates for the position of Council Member Place 3 and Councilmember Place 4 is 5:00 p.m. on August 21, 2017.

SECTION 15. An executed copy of this Ordinance will serve as proper notice of the election.

SECTION 16. Notice of the election, including a Spanish translation thereof, will be published at least once in a newspaper published in San Marcos on or after October 8, 2017 and on or before October 30, 2017, and will be posted on the bulletin board at City Hall on or before October 17, 2017

SECTION 17. A writ of election as required by the Texas Election Code will be delivered on or before October 23, 2017 by the Hays County Election Administrator to the presiding and alternate judges of each election precinct in which the election is ordered to be held.

SECTION 18. Testing of the automatic tabulating equipment will be performed and notice thereof will be given in accordance with Subchapter D of Chapter 127 of the Texas Election Code.

SECTION 19. The rate of compensation to be paid judges, clerks, and assistants to the Central Counting Station Presiding Judge and Tabulation Supervisor for services rendered during the election will be compensated at the rate of no more than \$10.00 per hour.

SECTION 20. The additional compensation to be paid judges who deliver returns of the election is established at \$25.00.

SECTION 21. If any portion of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect.

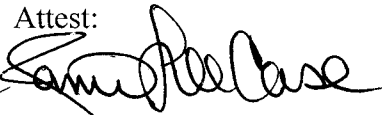
SECTION 22. The importance of this Ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings be waived and, this Ordinance will take effect immediately upon adoption.

CONSIDERED, APPROVED, AND ADOPTED on August 15, 2017.




John Thomaides  
Mayor

Attest:



Jamie Lee Case  
City Clerk

Approved:

  
Michael J. Cosentino  
City Attorney

ORDINANCE NO. 2017-62

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF THE GENERAL AND SPECIAL ELECTION, HELD ON NOVEMBER 7, 2017, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBER, PLACE THREE AND CITY COUNCIL MEMBER, PLACE FOUR, AND TO SUBMIT PROPOSED AMENDMENTS TO THE CITY CHARTER TO THE VOTERS; DECLARING AN EMERGENCY CREATING THE NEED TO ADOPT THIS ORDINANCE WITH ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE.

**RECITALS:**

1. On November 7, 2017 a general election was held for the purpose of electing City Council Member, Place Three and City Council Member, Place Four.
2. The City Council of the City of San Marcos, Texas convened on November 15, 2017 to consider the returns of the runoff election held on November 7, 2017 with the following members present: John Thomaides, Jane Hughson, Lisa Prewitt, Scott Gregson, Melissa Derrick, Ed Mihalkanin, and Saul Gonzales.
3. It appears to the Council, and the Council finds, that the election was in all respects lawfully held.
4. It appears to the Council, and Council finds, that the tabulation of the results of the election is correct.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The general election held on November 7, 2017 was duly called, notice of the election was given in accordance with law, and the election was held in accordance with law.

SECTION 2. The tabulation of votes cast in the general election held on November 7, 2017, for the purposes stated in Recital 1 above, a copy of which is attached to and made a part of this ordinance as Exhibit "A," is adopted as the official tabulation of the votes cast at the election, and the tabulation will be filed and recorded in the official records of the City of San Marcos as the official canvass of the election.

SECTION 3. The official canvass of the returns of the election reflects the following:

- A. For City Council Member, Place Three:

Ed Mihalkanin	<u>1,441</u>
Amy Stanfield	<u>762</u>

B. For City Council Member, Place Four:

Jane Hughson	<u>1,749</u>
Joshua Simpson	<u>405</u>

C. The following votes were cast for and against the following numbered propositions:

PROPOSITION - A

The amendment of Sections 1.01 and 1.02 to replace references to "municipal government" with the term "city government."

FOR 1,797

AGAINST 258

PROPOSITION - B

The amendment of Section 1.03 of the City Charter (Statement of Goals) to add the following as goals of the city government: to promote high quality affordable housing; and to conserve and protect the San Marcos River, its springs, aquifer, and tributaries.

FOR 1,866

AGAINST 256

PROPOSITION - C

The amendment of Section 3.02 of the City Charter (Qualifications of Council Members) to allow the address shown on a current Texas identification card to be used, in addition to a current Texas driver's license, to prove the person's principal physical residence is in the city.

FOR 1,780

AGAINST 323

PROPOSITION - D

The amendment of Section 3.05 of the City Charter to change all references to “mayor pro tempore” to “mayor pro tem” and to require the appointment of a deputy mayor pro tem after each regular election of council members.

FOR           1,726

AGAINST     302

PROPOSITION - E

The amendment of Section 3.09 of the City Charter (Meetings of the City Council) to require the council to hold twenty-two regular meetings at a minimum each year instead of requiring the council to hold two regular meetings each month.

FOR           1,464

AGAINST     596

PROPOSITION - F

The amendment of Sections 3.09 and 6.02 of the City Charter to replace all references to the “city secretary” with the term “city clerk.”

FOR           1,815

AGAINST     252

PROPOSITION - G

The amendment of Section 3.11 of the City Charter (Passage of Ordinances) to require the city attorney to approve the legality of ordinances or file written objections prior to consideration by the city council instead of after adoption.

FOR           1,805

AGAINST 221

PROPOSITION - H

The amendment of Section 4.01 of the City Charter (City Manager) to require a vote of at least five member of the city council, instead of four, to remove the city manager.

FOR 1,237

AGAINST 796

PROPOSITION - I

The amendment of Section 4.02 of the City Charter (City Clerk) to allow the city clerk to authenticate ordinances and resolutions by electronic signature.

FOR 1,636

AGAINST 420

PROPOSITION - J

The amendment to add a new section 4.07(Publication of Salaries) to require the salary range of each city position to be published on the city's website.

FOR 1,963

AGAINST 145

PROPOSITION - K

The amendment of Section 5.03 of the City Charter (Filing For Office) to require all candidates to sign the code of fair campaign practices in the Texas Election Code and require campaign contribution reports to be legible.

FOR 2,003



AGAINST 98

PROPOSITION - L

The amendment of Section 5.04 of the City Charter (The Official Ballot) to reword the first sentence thereof to read as follows:

“The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be ~~printed~~ included on the official ballots without party designation.”

FOR 1,555

AGAINST 483

PROPOSITION - M

The amendment of Section 7.01 of the of the City Charter (Planning and Zoning Commission) to eliminate real property ownership as a requirement for appointment or continued service on the commission; increase the residency requirement for appointment from three years to five years; and delete obsolete references to a commission member residing in the city's extraterritorial jurisdiction.

FOR 1,228

AGAINST 810

PROPOSITION - N

The amendment of Section 7.02 of the City Charter (Powers and Duties of the Planning and Zoning Commission) to add a provision that requires the planning and zoning staff to consult with the city attorney and follow all city ordinances, rules, and regulations before making any recommendations to the commission; and requires the commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council.

FOR 1,859

AGAINST 201

PROPOSITION - O

The amendment of Section 7.02 of the City Charter (Powers of the Planning and Zoning Commission) to clarify that a vote of at least six members of the city council (currently stated as "a three-fourths vote of the council") is required to reverse the denial of a conditional use permit by the commission and require appeals to the council on conditional use permit applications to be based on Texas and federal laws, city ordinances, and regulations.

FOR 1,611

AGAINST 380

PROPOSITION - P

The amendment of Section 8.02 of the City Charter (Preparation and Submission of Budget) and Section 8.05 (Budget a Public Record) to require the city council to take the following actions each year in the preparation of the city budget: conduct a visioning session by January 31<sup>st</sup>; conduct a budget policy workshop by February 27<sup>th</sup>; formulate a budget policy statement by March 31<sup>st</sup>; make copies of the proposed budget available at the San Marcos Public Library, at City Hall, and on the city's website; and publish the adopted budget and all supporting schedules on the city's website

FOR 1,902

AGAINST 142

PROPOSITION - Q

The amendment of Section 11.04 of the City Charter (Ordinance Granting Franchise) to make the city's current practice of making the full text of an ordinance granting a public utility franchise available at the San Marcos Public Library, at City Hall, and on the city's website a charter requirement.

FOR 1,925

AGAINST 110

PROPOSITION - R

The amendment of Section 12.02(a)(2) of the City Charter (Personal Interest and Code of Ethics) to add a provision to require updating of annual financial disclosure statements filed by city council members and members of boards and commissions within thirty days of any significant changes that would, if not disclosed, render the statement misleading or incomplete.

FOR 1,917

AGAINST 130

PROPOSITION – S

The amendment of Section 12.02(a)(3) of the City Charter (Personal Interest and Code of Ethics) to prohibit members of the city council and city employees from purchasing land, materials, supplies or services from the city with the exception of purchases made available to all members of the public.

FOR 1,922

AGAINST 140

PROPOSITION - T

The amendment adding a new subsection 12.02(4) to the City Charter to prohibit former council members from having any financial interest in the sale to the city of any land or interest in land or in a contract for consulting, development, or construction services for a period of two years after leaving office. Allowing the council or city manager to void contracts entered into in violation of this provision. Providing an exception for the city's acquisition of land or an interest in land from a former council member under the threat of eminent domain proceedings.

FOR 1,881

AGAINST 175

PROPOSITION – U

The amendment of Section 12.02, Subsection (c) of the City Charter (Duties of the Ethics Review Commission) to add a new provision that gives the Commission the authority to conduct hearings and make recommendations regarding alleged violations of the city charter.

FOR           1,843

AGAINST    191

PROPOSITION - V

The amendment to Section 12.03 of the City Charter (Nepotism) to reword the section caption to include both nepotism and conflict of interest; prohibit the employment or appointment of a business partner or person related within the second degree by affinity or within the third degree by consanguinity to the mayor, a council member, the city manager, city clerk, city attorney or presiding judge of the city to any office, position, board, or commission of the city; and provide an exemption for persons who have been continuously serving in their office or position for at least six months prior to the election or appointment of the related public official.

FOR           1,832

AGAINST    216

PROPOSITION – W

Amending the City Charter to correct grammatical, punctuation and spelling errors.

FOR           2,001

AGAINST    107

SECTION 4. That Ed Mihalkanin received a majority of the votes and is elected to serve as City Council Member, Place Three.

SECTION 5. That Jane Hughson received a majority of the votes and is elected to serve as City Council Member, Place Four.

SECTION 6. Propositions A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, and W are hereby adopted and the San Marcos City Charter is hereby amended as of the effective date of this ordinance to incorporate the text amendments corresponding to each of those propositions as set forth in Ordinance 2017-45 that called the special charter amendment election.

SECTION 7. The importance of this Ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings be waived and, this Ordinance will take effect immediately upon adoption.

CONSIDERED, APPROVED, AND ADOPTED this the 15<sup>th</sup> day of November, 2017.



John Thomaides  
Mayor

Attest:



Jamie Lee Case  
City Clerk

Approved:



Michael J. Cosentino  
City Attorney

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## COUNCIL MEMBER, PLACE 3 SM 3

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Ed Mihalkanin	Amy Stanfield	Totals
110	0	23	19	42	496	8.47%	24	17	41
113	22	67	130	219	4377	5.00%	125	86	211
111	3	14	31	48	303	15.84%	35	13	48
112	23	59	105	187	2349	7.96%	128	53	181
120	20	40	100	160	5032	3.18%	98	53	151
315	4	113	101	218	765	28.50%	97	119	216
316	9	52	51	112	1281	8.74%	57	54	111
317	1	13	19	33	472	6.99%	20	13	33
318	0	7	4	11	109	10.09%	9	2	11
330	6	127	100	233	1593	14.63%	168	61	229
336	14	181	202	397	3529	11.25%	270	123	393
332	3	188	182	373	3147	11.85%	275	87	362
334	0	28	3	31	2901	1.07%	22	9	31
413	0	8	4	12	784	1.53%	8	2	10
414	5	12	27	44	1496	2.94%	34	8	42
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	48	45	93
415	2	11	17	30	2371	1.27%	17	9	26
447	0	4	12	16	625	2.56%	6	8	14

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## COUNCIL MEMBER, PLACE 4 SM 4

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Jane Hughson	Joshua Simpson	Totals
110	0	23	19	42	496	8.47%	34	7	41
113	22	67	130	219	4377	5.00%	164	44	208
111	3	14	31	48	303	15.84%	36	11	47
112	23	59	105	187	2349	7.96%	143	35	178
120	20	40	100	160	5032	3.18%	133	19	152
315	4	113	101	218	765	28.50%	143	60	203
316	9	52	51	112	1281	8.74%	81	29	110
317	1	13	19	33	472	6.99%	25	8	33
318	0	7	4	11	109	10.09%	9	2	11
330	6	127	100	233	1593	14.63%	190	32	222
336	14	181	202	397	3529	11.25%	330	54	384
332	3	188	182	373	3147	11.85%	312	44	356
334	0	28	3	31	2901	1.07%	21	8	29
413	0	8	4	12	784	1.53%	8	2	10
414	5	12	27	44	1496	2.94%	33	8	41
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	57	35	92
415	2	11	17	30	2371	1.27%	20	4	24
447	0	4	12	16	625	2.56%	10	3	13

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION A SM A

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	37	3	40
113	22	67	130	219	4377	5.00%	166	34	200
111	3	14	31	48	303	15.84%	32	7	39
112	23	59	105	187	2349	7.96%	140	25	165
120	20	40	100	160	5032	3.18%	128	21	149
315	4	113	101	218	765	28.50%	180	20	200
316	9	52	51	112	1281	8.74%	96	10	106
317	1	13	19	33	472	6.99%	23	7	30
318	0	7	4	11	109	10.09%	10	0	10
330	6	127	100	233	1593	14.63%	189	30	219
336	14	181	202	397	3529	11.25%	320	41	361
332	3	188	182	373	3147	11.85%	294	35	329
334	0	28	3	31	2901	1.07%	25	2	27
413	0	8	4	12	784	1.53%	10	2	12
414	5	12	27	44	1496	2.94%	27	6	33
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	80	13	93
415	2	11	17	30	2371	1.27%	26	1	27
447	0	4	12	16	625	2.56%	14	1	15



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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION B SM B

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	40	2	42
113	22	67	130	219	4377	5.00%	184	21	205
111	3	14	31	48	303	15.84%	37	8	45
112	23	59	105	187	2349	7.96%	157	13	170
120	20	40	100	160	5032	3.16%	144	7	151
315	4	113	101	218	765	28.50%	159	47	206
318	9	52	51	112	1281	8.74%	89	17	106
317	1	13	19	33	472	6.99%	23	8	31
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	193	27	220
336	14	181	202	397	3529	11.25%	342	33	375
332	3	188	182	373	3147	11.85%	294	50	344
334	0	28	3	31	2901	1.07%	25	3	28
413	0	8	4	12	784	1.53%	11	1	12
414	5	12	27	44	1496	2.94%	33	4	37
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	81	13	94
415	2	11	17	30	2371	1.27%	29	1	30
447	0	4	12	16	625	2.56%	16	0	16

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION C SM C

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	32	10	42
113	22	67	130	219	4377	5.00%	168	36	204
111	3	14	31	48	303	15.84%	36	7	43
112	23	59	105	187	2349	7.96%	146	23	169
120	20	40	100	160	5032	3.16%	124	26	150
315	4	113	101	218	765	28.50%	184	26	210
316	9	52	51	112	1281	8.74%	89	15	104
317	1	13	19	33	472	6.99%	23	8	31
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	187	33	220
336	14	181	202	397	3529	11.25%	317	53	370
332	3	188	182	373	3147	11.85%	281	57	338
334	0	28	3	31	2901	1.07%	21	5	26
413	0	8	4	12	784	1.53%	9	2	11
414	5	12	27	44	1496	2.94%	34	3	37
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	936	10.55%	77	16	93
415	2	11	17	30	2371	1.27%	27	2	29
447	0	4	12	16	625	2.56%	16	0	16

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION D SM D

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	36	4	40
113	22	67	130	219	4377	5.00%	160	38	198
111	3	14	31	48	303	15.84%	33	5	38
112	23	59	105	187	2349	7.96%	129	33	162
120	20	40	100	160	5032	3.18%	116	31	147
315	4	113	101	218	765	28.50%	175	26	201
316	9	52	51	112	1281	8.74%	93	11	104
317	1	13	19	33	472	6.99%	19	10	29
318	0	7	4	11	109	10.09%	9	0	9
330	6	127	100	233	1593	14.63%	187	27	214
336	14	181	202	397	3529	11.25%	314	47	361
332	3	188	182	373	3147	11.85%	286	39	325
334	0	28	3	31	2901	1.07%	22	5	27
413	0	8	4	12	784	1.53%	8	2	10
414	5	12	27	44	1496	2.94%	25	7	32
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	76	14	90
415	2	11	17	30	2371	1.27%	24	2	26
447	0	4	12	16	625	2.56%	14	1	15

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION E SM E

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	24	17	41
113	22	67	130	219	4377	5.00%	140	59	199
111	3	14	31	48	303	15.84%	30	11	41
112	23	59	105	187	2349	7.96%	108	57	165
120	20	40	100	160	5032	3.18%	95	54	149
315	4	113	101	218	765	28.50%	156	45	201
316	9	52	51	112	1281	8.74%	77	28	105
317	1	13	19	33	472	6.99%	18	10	28
318	0	7	4	11	109	10.09%	8	2	10
330	6	127	100	233	1593	14.63%	165	52	217
336	14	181	202	397	3529	11.25%	267	95	362
332	3	186	182	373	3147	11.85%	237	95	332
334	0	28	3	31	2901	1.07%	16	12	28
413	0	8	4	12	784	1.53%	5	6	11
414	5	12	27	44	1496	2.94%	22	14	36
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	64	28	92
415	2	11	17	30	2371	1.27%	19	9	28
447	0	4	12	16	625	2.56%	13	2	15

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION F SM F

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	37	3	40
113	22	67	130	219	4377	5.00%	172	29	201
111	3	14	31	48	303	15.84%	38	4	42
112	23	59	105	187	2349	7.96%	140	25	165
120	20	40	100	160	5032	3.18%	118	30	148
315	4	113	101	218	765	28.50%	181	23	204
316	9	52	51	112	1281	8.74%	96	8	104
317	1	13	19	33	472	6.99%	23	7	30
318	0	7	4	11	109	10.09%	10	0	10
330	6	127	100	233	1593	14.63%	192	26	218
336	14	181	202	397	3529	11.25%	325	35	360
332	3	188	182	373	3147	11.85%	297	37	334
334	0	28	3	31	2901	1.07%	25	4	29
413	0	8	4	12	784	1.53%	10	1	11
414	5	12	27	44	1496	2.94%	30	5	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	84	9	93
415	2	11	17	30	2371	1.27%	23	5	28
447	0	4	12	16	625	2.56%	14	1	15

## HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION G SM G

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	37	2	39
113	22	67	130	219	4377	5.00%	160	35	195
111	3	14	31	48	303	15.84%	36	5	41
112	23	59	105	187	2349	7.96%	141	22	163
120	20	40	100	160	5032	3.18%	128	19	147
315	4	113	101	218	765	28.50%	184	15	199
316	9	52	51	112	1281	8.74%	89	13	102
317	1	13	19	33	472	6.99%	24	5	29
318	0	7	4	11	109	10.09%	9	1	10
330	8	127	100	233	1593	14.63%	194	21	215
336	14	181	202	397	3529	11.25%	331	31	362
332	3	188	182	373	3147	11.85%	293	32	325
334	0	28	3	31	2901	1.07%	21	3	24
413	0	8	4	12	784	1.53%	5	3	8
414	5	12	27	44	1496	2.94%	30	3	33
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	83	8	91
415	2	11	17	30	2371	1.27%	27	1	28
447	0	4	12	16	625	2.56%	13	2	15

**結論**

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION H SM H

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	29	12	41
113	22	67	130	219	4377	5.00%	134	61	195
111	3	14	31	48	303	15.84%	26	15	41
112	23	59	105	187	2349	7.96%	102	62	164
120	20	40	100	160	5032	3.16%	77	64	141
315	4	113	101	218	765	28.50%	132	72	204
316	9	52	51	112	1281	8.74%	57	46	103
317	1	13	19	33	472	6.99%	19	11	30
318	0	7	4	11	109	10.09%	6	4	10
330	6	127	100	233	1593	14.63%	119	92	211
336	14	181	202	397	3529	11.25%	216	139	355
332	3	188	182	373	3147	11.85%	199	129	328
334	0	28	3	31	2901	1.07%	15	11	26
413	0	8	4	12	784	1.53%	3	6	9
414	5	12	27	44	1496	2.94%	22	16	38
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	55	38	93
415	2	11	17	30	2371	1.27%	15	14	29
447	0	4	12	16	625	2.56%	11	4	15

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION I SM I

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	28	12	40
113	22	67	130	219	4377	5.00%	151	47	198
111	3	14	31	48	303	15.84%	38	5	43
112	23	59	105	187	2349	7.96%	127	39	166
120	20	40	100	160	5032	3.18%	102	41	143
315	4	113	101	218	765	28.50%	175	25	200
316	9	52	51	112	1281	8.74%	83	21	104
317	1	13	19	33	472	6.99%	24	6	30
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	175	39	214
336	14	181	202	397	3529	11.25%	299	67	366
332	3	168	182	373	3147	11.85%	267	66	333
334	0	28	3	31	2901	1.07%	20	6	26
413	0	8	4	12	784	1.53%	6	4	10
414	5	12	27	44	1496	2.94%	27	9	36
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	71	21	92
415	2	11	17	30	2371	1.27%	21	8	29
447	0	4	12	16	625	2.56%	13	3	16

Total



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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION J SM J

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	38	3	41
113	22	67	130	219	4377	5.00%	180	23	203
111	3	14	31	48	303	15.84%	41	4	45
112	23	59	105	187	2349	7.96%	156	15	171
120	20	40	100	160	5032	3.18%	141	8	149
315	4	113	101	218	765	28.50%	197	13	210
316	9	52	51	112	1281	8.74%	96	11	107
317	1	13	19	33	472	6.99%	27	2	29
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	198	20	218
336	14	181	202	397	3529	11.25%	357	15	372
332	3	188	182	373	3147	11.85%	319	21	340
334	0	28	3	31	2901	1.07%	26	1	27
413	0	8	4	12	784	1.53%	9	1	10
414	5	12	27	44	1496	2.94%	35	1	36
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	89	6	95
415	2	11	17	30	2371	1.27%	29	0	29
447	0	4	12	16	625	2.56%	16	0	16

Total

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION K SM K

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	41	1	42
113	22	67	130	219	4377	5.00%	191	11	202
111	3	14	31	48	303	15.84%	43	3	46
112	23	59	105	187	2349	7.96%	157	13	170
120	20	40	100	160	5032	3.18%	142	7	149
315	4	113	101	218	765	28.50%	195	12	207
316	9	52	51	112	1281	8.74%	101	5	106
317	1	13	19	33	472	6.99%	28	2	30
318	0	7	4	11	109	10.09%	10	0	10
330	6	127	100	233	1593	14.63%	209	9	218
336	14	181	202	397	3529	11.25%	365	6	371
332	3	188	182	373	3147	11.85%	322	17	339
334	0	28	3	31	2901	1.07%	26	0	26
413	0	8	4	12	784	1.53%	9	2	11
414	5	12	27	44	1496	2.94%	31	3	34
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	838	10.55%	88	7	95
415	2	11	17	30	2371	1.27%	29	0	29
447	0	4	12	16	625	2.56%	16	0	16

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION L SM L

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	33	7	40
113	22	67	130	219	4377	5.00%	149	51	200
111	3	14	31	48	303	15.84%	35	8	43
112	23	59	105	187	2349	7.96%	135	32	167
120	20	40	100	160	5032	3.18%	113	34	147
315	4	113	101	218	765	28.50%	161	41	202
316	9	52	51	112	1281	8.74%	83	20	103
317	1	13	19	33	472	6.99%	19	10	29
318	0	7	4	11	109	10.09%	8	1	9
330	6	127	100	233	1593	14.83%	162	51	213
336	14	181	202	397	3529	11.25%	255	100	355
332	3	188	182	373	3147	11.85%	254	69	323
334	0	28	3	31	2901	1.07%	19	8	27
413	0	8	4	12	784	1.53%	5	3	8
414	5	12	27	44	1496	2.94%	29	5	34
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	59	34	93
415	2	11	17	30	2371	1.27%	20	9	29
447	0	4	12	16	625	2.56%	16	0	16

TOTALS

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION M SM M

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	29	12	41
113	22	67	130	219	4377	5.00%	122	73	195
111	3	14	31	48	303	15.84%	20	20	40
112	23	59	105	187	2349	7.96%	107	59	166
120	20	40	100	160	5032	3.18%	93	51	144
315	4	113	101	218	765	28.50%	115	87	202
316	9	52	51	112	1281	8.74%	64	40	104
317	1	13	19	33	472	6.99%	18	10	28
318	0	7	4	11	109	10.09%	7	3	10
330	8	127	100	233	1593	14.63%	109	104	213
338	14	181	202	397	3529	11.25%	224	138	362
332	3	188	182	373	3147	11.85%	190	141	331
334	0	28	3	31	2901	1.07%	20	5	25
413	0	8	4	12	784	1.53%	5	3	8
414	5	12	27	44	1496	2.94%	26	8	34
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	47	46	93
415	2	11	17	30	2371	1.27%	22	5	27
447	0	4	12	16	625	2.56%	10	5	15

TOTAL 1511 1511 1511 1511 1511 1511 1511 1511 1511 1511

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION N SM N

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	38	3	41
113	22	67	130	219	4377	5.00%	171	26	197
111	3	14	31	48	303	15.84%	35	7	42
112	23	59	105	187	2349	7.96%	153	13	166
120	20	40	100	160	5032	3.18%	129	18	147
315	4	113	101	218	765	28.50%	176	24	200
316	9	52	51	112	1281	8.74%	97	6	103
317	1	13	19	33	472	6.99%	29	1	30
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	189	26	215
336	14	181	202	397	3529	11.25%	340	25	365
332	3	188	182	373	3147	11.85%	300	35	335
334	0	28	3	31	2901	1.07%	24	3	27
413	0	8	4	12	784	1.53%	8	1	9
414	5	12	27	44	1496	2.94%	32	3	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	87	6	93
415	2	11	17	30	2371	1.27%	27	2	29
447	0	4	12	16	625	2.56%	15	1	16

Total 265 883 171 243 243 243 243 243 243 243

## HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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**Total Number of Voters : 8,117 of 120,288 = 6.75%**

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

**District Precincts Reporting 19 of 19 = 100.00%.**

## CITY OF SAN MARCOS PROPOSITION O SM O

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	36	5	41
113	22	67	130	219	4377	5.00%	150	43	193
111	3	14	31	48	303	15.84%	30	10	40
112	23	59	105	187	2349	7.96%	133	29	162
120	20	40	100	160	5032	3.18%	117	26	143
315	4	113	101	218	765	28.50%	160	32	192
316	9	52	51	112	1281	8.74%	70	31	101
317	1	13	19	33	472	6.99%	23	5	28
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	160	49	209
336	14	181	202	397	3529	11.25%	288	62	350
332	3	188	182	373	3147	11.85%	269	53	322
334	0	28	3	31	2901	1.07%	22	3	25
413	0	8	4	12	784	1.53%	5	3	8
414	5	12	27	44	1496	2.94%	27	8	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	74	16	90
415	2	11	17	30	2371	1.27%	23	3	26
447	0	4	12	16	625	2.56%	15	1	16

**Total**

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION P SM P

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	39	2	41
113	22	67	130	219	4377	5.00%	186	14	200
111	3	14	31	48	303	15.84%	40	3	43
112	23	58	105	187	2349	7.96%	157	11	168
120	20	40	100	160	5032	3.18%	138	7	145
315	4	113	101	218	765	28.50%	180	17	197
316	9	52	51	112	1281	8.74%	92	10	102
317	1	13	19	33	472	6.99%	28	1	29
318	0	7	4	11	109	10.09%	8	2	10
330	6	127	100	233	1593	14.83%	202	13	215
336	14	181	202	397	3529	11.25%	336	20	356
332	3	188	182	373	3147	11.85%	302	31	333
334	0	28	3	31	2901	1.07%	24	1	25
413	0	8	4	12	784	1.53%	9	1	10
414	5	12	27	44	1496	2.94%	33	1	34
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	84	8	92
415	2	11	17	30	2371	1.27%	28	0	28
447	0	4	12	16	625	2.56%	16	0	16

Total 110 22 113 111 112 120 315 316 317 318 330 336 332 334 413 414 416 417 415 447

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION Q SM Q

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	39	1	40
113	22	67	130	219	4377	5.00%	174	18	192
111	3	14	31	48	303	15.84%	39	4	43
112	23	58	105	187	2349	7.96%	157	9	166
120	20	40	100	160	5032	3.18%	141	5	146
315	4	113	101	218	765	28.50%	182	15	197
316	9	52	51	112	1281	8.74%	92	7	99
317	1	13	19	33	472	6.99%	28	1	29
318	0	7	4	11	109	10.09%	9	0	9
330	6	127	100	233	1593	14.63%	201	11	212
336	14	181	202	397	3529	11.25%	351	10	361
332	3	188	182	373	3147	11.85%	314	18	332
334	0	28	3	31	2901	1.07%	25	1	26
413	0	8	4	12	784	1.53%	8	1	9
414	5	12	27	44	1496	2.94%	34	1	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	86	8	94
415	2	11	17	30	2371	1.27%	29	0	29
447	0	4	12	16	825	2.56%	16	0	16



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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION R SM R

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	39	1	40
113	22	67	130	219	4377	5.00%	172	18	190
111	3	14	31	48	303	15.84%	37	5	42
112	23	58	105	187	2349	7.96%	155	11	166
120	20	40	100	160	5032	3.18%	143	3	146
315	4	113	101	218	765	28.50%	187	16	203
316	9	52	51	112	1281	8.74%	91	11	102
317	1	13	19	33	472	6.99%	27	2	29
318	0	7	4	11	109	10.09%	9	0	9
330	6	127	100	233	1593	14.63%	203	14	217
336	14	181	202	397	3529	11.25%	355	9	364
332	3	188	182	373	3147	11.85%	307	24	331
334	0	28	3	31	2901	1.07%	25	1	26
413	0	8	4	12	784	1.53%	7	2	9
414	5	12	27	44	1496	2.94%	32	4	36
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	86	7	93
415	2	11	17	30	2371	1.27%	28	1	29
447	0	4	12	16	625	2.56%	14	1	15

Total

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION S SM S

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	38	3	41
113	22	67	130	219	4377	5.00%	174	20	194
111	3	14	31	48	303	15.84%	40	3	43
112	23	59	105	187	2349	7.96%	153	17	170
120	20	40	100	160	5032	3.18%	139	9	148
315	4	113	101	218	765	28.50%	187	14	201
316	9	52	51	112	1281	8.74%	96	6	102
317	1	13	19	33	472	6.99%	27	2	29
318	0	7	4	11	109	10.09%	9	0	9
330	6	127	100	233	1593	14.63%	200	16	216
336	14	181	202	397	3529	11.25%	357	8	365
332	3	188	182	373	3147	11.85%	319	18	337
334	0	28	3	31	2901	1.07%	20	7	27
413	0	8	4	12	784	1.53%	7	1	8
414	5	12	27	44	1496	2.94%	32	3	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	83	9	92
415	2	11	17	30	2371	1.27%	26	3	29
447	0	4	12	16	625	2.56%	15	1	16

Totals: 110, 113, 111, 112, 120, 315, 316, 317, 318, 330, 336, 332, 334, 413, 414, 416, 417, 415, 447

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION T SM T

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	38	3	41
113	22	67	130	219	4377	5.00%	170	24	194
111	3	14	31	48	303	15.84%	38	3	41
112	23	59	105	187	2349	7.96%	152	15	167
120	20	40	100	160	5032	3.18%	136	11	147
315	4	113	101	218	765	28.50%	179	22	201
316	9	52	51	112	1281	8.74%	98	6	104
317	1	13	19	33	472	6.99%	29	1	30
318	0	7	4	11	109	10.08%	9	1	10
330	6	127	100	233	1593	14.63%	191	26	217
336	14	181	202	397	3529	11.25%	346	18	364
332	3	188	182	373	3147	11.85%	307	27	334
334	0	28	3	31	2901	1.07%	21	5	26
413	0	8	4	12	784	1.53%	8	1	9
414	5	12	27	44	1496	2.94%	34	1	35
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	83	9	92
415	2	11	17	30	2371	1.27%	28	2	30
447	0	4	12	16	625	2.56%	14	0	14

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION U SM U

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	38	2	40
113	22	67	130	219	4377	5.00%	172	22	194
111	3	14	31	48	303	15.84%	36	4	40
112	23	59	105	187	2349	7.96%	148	16	164
120	20	40	100	160	5032	3.18%	131	12	143
315	4	113	101	218	765	28.50%	173	26	199
316	9	52	51	112	1281	8.74%	95	9	104
317	1	13	19	33	472	6.99%	26	3	29
318	0	7	4	11	109	10.09%	9	1	10
330	6	127	100	233	1593	14.63%	189	28	217
336	14	181	202	397	3529	11.25%	337	24	361
332	3	188	182	373	3147	11.85%	298	29	327
334	0	28	3	31	2901	1.07%	22	3	25
413	0	8	4	12	784	1.53%	8	1	9
414	5	12	27	44	1496	2.94%	34	2	36
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	83	8	91
415	2	11	17	30	2371	1.27%	28	1	29
447	0	4	12	16	625	2.56%	16	0	16

Totals

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION V SM V

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	39	2	41
113	22	67	130	219	4377	5.00%	177	21	198
111	3	14	31	48	303	15.84%	37	4	41
112	23	59	105	187	2349	7.96%	150	19	169
120	20	40	100	160	5032	3.18%	140	7	147
315	4	113	101	218	765	28.50%	175	22	197
316	9	52	51	112	1281	8.74%	82	12	104
317	1	13	19	33	472	6.99%	24	6	30
318	0	7	4	11	109	10.09%	9	0	9
330	6	127	100	233	1593	14.63%	195	22	217
336	14	181	202	397	3529	11.25%	331	28	359
332	3	188	182	373	3147	11.85%	275	51	326
334	0	28	3	31	2901	1.07%	21	5	26
413	0	8	4	12	784	1.53%	8	1	9
414	5	12	27	44	1496	2.94%	31	6	37
416	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	87	7	94
415	2	11	17	30	2371	1.27%	28	2	30
447	0	4	12	16	625	2.56%	13	1	14

Total

# HAYS COUNTY, TEXAS — GENERAL ELECTION — November 07, 2017

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Total Number of Voters : 8,117 of 120,288 = 6.75%

Precincts Reporting 49 of 49 = 100.00%

Number of District Voters: 2,265 of 32,682 = 6.93%

District Precincts Reporting 19 of 19 = 100.00%

## CITY OF SAN MARCOS PROPOSITION W SM W

Precinct	Absentee Ballots Cast	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	FOR	AGAINST	Totals
110	0	23	19	42	496	8.47%	40	2	42
113	22	67	130	219	4377	5.00%	184	17	201
111	3	14	31	48	303	15.84%	43	2	45
112	23	59	105	187	2349	7.96%	156	13	169
120	20	40	100	160	5032	3.18%	142	8	150
315	4	113	101	218	765	28.50%	198	8	206
316	9	52	51	112	1281	8.74%	103	2	105
317	1	13	19	33	472	6.99%	30	1	31
318	0	7	4	11	109	10.09%	10	0	10
330	6	127	100	233	1593	14.63%	209	12	221
336	14	181	202	397	3529	11.25%	355	16	371
332	3	188	182	373	3147	11.85%	330	14	344
334	0	28	3	31	2901	1.07%	23	1	24
413	0	8	4	12	784	1.53%	9	1	10
414	5	12	27	44	1496	2.94%	35	3	38
418	0	0	0	0	114	00.00%	0	0	0
417	0	36	63	99	938	10.55%	89	7	96
415	2	11	17	30	2371	1.27%	29	0	29
447	0	4	12	16	625	2.56%	16	0	16

Totals